

AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 103

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Allen, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2011

~~An act relating to the Budget Act of 2011.~~ *An act to amend Sections 17276.1, 17276.20, 23101, 24416.1, 24416.20, and 25128 of, to amend and repeal Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 17053.75, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.4, 17276.5, 17276.6, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.4, 24416.5, and 24416.6 of, to amend, repeal, and add Section 25136 of, to add Sections 17053.31 and 23611 to, to repeal Section 25128.5 of, and to repeal and add Sections 17276.22 and 24416.22 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 103, as amended, Committee on Budget. ~~Budget Act of 2011.~~ *Taxation: personal income and corporation taxes.*

(1) The Personal Income Tax Law and the Corporation Tax Law allow for various tax credits and deductions in computing the taxes imposed by those laws, relating to enterprise zones, targeted tax areas, local agency military base recovery areas, manufacturing enhancement areas, and net operating losses.

This bill would make these provisions inoperative for taxable years beginning on or after January 1, 2011, and would repeal these

provisions as of December 1, 2011. This bill would also prevent carryovers for taxable years beginning on or after January 1, 2011, for specified provisions. This bill would delete obsolete references to conform to these changes.

(2) Existing law allows individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law, for net operating losses incurred in taxable years beginning on or after January 1, 2008, provides a carryover period of 20 years and allows net operating losses attributable to taxable years beginning on or after January 1, 2011, to be carrybacks to each of the preceding 2 taxable years, as provided.

This bill would recalculate elected net operating loss carryovers available, under specified provisions that have been repealed by this bill, by applying the net operating loss rules applicable to the taxable year in which the net operating loss was incurred.

(3) The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the income between this state and other states and foreign countries in accordance with a specified 4-factor formula based on the property, payroll, and sales within and without this state, except that in the case of an apportioning trade or business that derives more than 50% of its gross business receipts from conducting one or more qualified business activities, as defined, business income is apportioned in accordance with a specified 3-factor formula. That law, for taxable years beginning on or after January 1, 2011, allows a taxpayer to have that income apportioned in accordance with a single sales factor formula, except as provided, pursuant to an irrevocable annual election, as specified. That law also provides that sales of tangible and intangible personal property are in this state in accordance with specified criteria.

This bill would, for taxable years beginning on or after January 1, 2011, revise the rules which determine whether a taxpayer is doing business within this state, revise the provisions which determine whether specific sales occur in this state, and require a taxpayer, except as provided, to apportion income in accordance with a single sales factor.

(4) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this

purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(5) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(6) This bill would take effect immediately as a tax levy.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17053.31 is added to the Revenue and
2 Taxation Code, to read:
3 17053.31. (a) Notwithstanding any other provision or former
4 provision of this part to the contrary, a credit available for
5 carryover under former sections of this part identified in
6 subdivision (b) shall not be allowed to be carried over to any
7 taxable year beginning on or after January 1, 2011.
8 (b) This section shall apply to credit carryovers under the
9 following former sections of this part:
10 (1) Former Section 17052.15, as identified in subparagraph
11 (G) of paragraph (1) of subdivision (c) of Section 17039, as in
12 effect on the effective date of the act adding this section.
13 (2) Former Section 17053.10, as identified in subparagraph
14 (K) of paragraph (1) of subdivision (c) of Section 17039, as in
15 effect on the effective date of the act adding this section.
16 (3) Former Section 17053.17, as identified in subparagraph
17 (M) of paragraph (1) of subdivision (c) of Section 17039, as in
18 effect on the effective date of the act adding this section.
19 SEC. 2. Section 17053.33 of the Revenue and Taxation Code
20 is amended to read:

1 17053.33. (a) For each taxable year beginning on or after
2 January 1, 1998, there shall be allowed as a credit against the “net
3 tax” (as defined in Section 17039) for the taxable year an amount
4 equal to the sales or use tax paid or incurred during the taxable
5 year by the qualified taxpayer in connection with the qualified
6 taxpayer’s purchase of qualified property.

7 (b) For purposes of this section:

8 (1) “Qualified property” means property that meets all of the
9 following requirements:

10 (A) Is any of the following:

11 (i) Machinery and machinery parts used for fabricating,
12 processing, assembling, and manufacturing.

13 (ii) Machinery and machinery parts used for the production of
14 renewable energy resources.

15 (iii) Machinery and machinery parts used for either of the
16 following:

17 (I) Air pollution control mechanisms.

18 (II) Water pollution control mechanisms.

19 (iv) Data processing and communications equipment, such as
20 computers, computer-automated drafting systems, copy machines,
21 telephone systems, and faxes.

22 (v) Motion picture manufacturing equipment central to
23 production and post production, such as cameras, audio recorders,
24 and digital image and sound processing equipment.

25 (B) The total cost of qualified property purchased and placed
26 in service in any taxable year that may be taken into account by
27 any qualified taxpayer for purposes of claiming this credit shall
28 not exceed one million dollars (\$1,000,000).

29 (C) The qualified property is used by the qualified taxpayer
30 exclusively in a targeted tax area.

31 (D) The qualified property is purchased and placed in service
32 before the date the targeted tax area designation expires, is revoked,
33 is no longer binding, or becomes inoperative.

34 (2) (A) “Qualified taxpayer” means a person or entity that meets
35 both of the following:

36 (i) Is engaged in a trade or business within a targeted tax area
37 designated pursuant to Chapter 12.93 (commencing with Section
38 7097) of Division 7 of Title 1 of the Government Code.

39 (ii) Is engaged in those lines of business described in Codes
40 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,

1 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
2 of the Standard Industrial Classification (SIC) Manual published
3 by the United States Office of Management and Budget, 1987
4 edition.

5 (B) In the case of any pass-through entity, the determination of
6 whether a taxpayer is a qualified taxpayer under this section shall
7 be made at the entity level and any credit under this section or
8 Section 23633 shall be allowed to the pass-through entity and
9 passed through to the partners or shareholders in accordance with
10 applicable provisions of this part or Part 11 (commencing with
11 Section 23001). For purposes of this subparagraph, the term
12 “pass-through entity” means any partnership or S corporation.

13 (3) “Targeted tax area” means the area designated pursuant to
14 Chapter 12.93 (commencing with Section 7097) of Division 7 of
15 Title 1 of the Government Code.

16 (c) If the qualified taxpayer is allowed a credit for qualified
17 property pursuant to this section, only one credit shall be allowed
18 to the taxpayer under this part with respect to that qualified
19 property.

20 (d) If the qualified taxpayer has purchased property upon which
21 a use tax has been paid or incurred, the credit provided by this
22 section shall be allowed only if qualified property of a comparable
23 quality and price is not timely available for purchase in this state.

24 (e) In the case where the credit otherwise allowed under this
25 section exceeds the “net tax” for the taxable year, that portion of
26 the credit that exceeds the “net tax” may be carried over and added
27 to the credit, if any, in the following year, and succeeding years if
28 necessary, until the credit is exhausted. The credit shall be applied
29 first to the earliest taxable years possible.

30 (f) Any qualified taxpayer who elects to be subject to this section
31 shall not be entitled to increase the basis of the qualified property
32 as otherwise required by Section 164(a) of the Internal Revenue
33 Code with respect to sales or use tax paid or incurred in connection
34 with the qualified taxpayer’s purchase of qualified property.

35 (g) (1) The amount of the credit otherwise allowed under this
36 section and Section 17053.34, including any credit carryover from
37 prior years, that may reduce the “net tax” for the taxable year shall
38 not exceed the amount of tax that would be imposed on the
39 qualified taxpayer’s business income attributable to the targeted
40 tax area determined as if that attributable income represented all

1 of the income of the qualified taxpayer subject to tax under this
2 part.

3 (2) Attributable income shall be that portion of the taxpayer's
4 California source business income that is apportioned to the
5 targeted tax area. For that purpose, the taxpayer's business income
6 attributable to sources in this state first shall be determined in
7 accordance with Chapter 17 (commencing with Section 25101) of
8 Part 11. That business income shall be further apportioned to the
9 targeted tax area in accordance with Article 2 (commencing with
10 Section 25120) of Chapter 17 of Part 11, modified for purposes
11 of this section in accordance with paragraph (3).

12 (3) Business income shall be apportioned to the targeted tax
13 area by multiplying the total California business income of the
14 taxpayer by a fraction, the numerator of which is the property
15 factor plus the payroll factor, and the denominator of which is two.
16 For purposes of this paragraph:

17 (A) The property factor is a fraction, the numerator of which is
18 the average value of the taxpayer's real and tangible personal
19 property owned or rented and used in the targeted tax area during
20 the taxable year, and the denominator of which is the average value
21 of all the taxpayer's real and tangible personal property owned or
22 rented and used in this state during the taxable year.

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the targeted tax area during
25 the taxable year for compensation, and the denominator of which
26 is the total compensation paid by the taxpayer in this state during
27 the taxable year.

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, as if it were an amount exceeding the "net tax" for the
31 taxable year, as provided in subdivision (e).

32 (5) In the event that a credit carryover is allowable under
33 subdivision (e) for any taxable year after the targeted tax area
34 designation has expired, has been revoked, is no longer binding,
35 or has become inoperative, the targeted tax area shall be deemed
36 to remain in existence for purposes of computing the limitation
37 specified in this subdivision.

38 (h) The amendments made to this section by the act adding this
39 subdivision shall apply to taxable years beginning on or after
40 January 1, 1998.

1 *(i) (1) This section shall cease to be operative for taxable years*
2 *beginning on or after January 1, 2011.*

3 *(2) In the case of any portion of a credit available for carryover*
4 *to a taxable year beginning on or after January 1, 2011, under*
5 *subdivision (e), as that subdivision read prior to the amendments*
6 *made by the act adding this subdivision, neither that subdivision*
7 *nor subdivision (d) of Section 17039 shall apply, and those unused*
8 *credit amounts shall not be carried over to any taxable year*
9 *beginning on or after January 1, 2011.*

10 *(j) This section shall be repealed as of December 1, 2011.*

11 *SEC. 3. Section 17053.34 of the Revenue and Taxation Code*
12 *is amended to read:*

13 17053.34. (a) For each taxable year beginning on or after
14 January 1, 1998, there shall be allowed a credit against the “net
15 tax” (as defined in Section 17039) to a qualified taxpayer who
16 employs a qualified employee in a targeted tax area during the
17 taxable year. The credit shall be equal to the sum of each of the
18 following:

19 (1) Fifty percent of qualified wages in the first year of
20 employment.

21 (2) Forty percent of qualified wages in the second year of
22 employment.

23 (3) Thirty percent of qualified wages in the third year of
24 employment.

25 (4) Twenty percent of qualified wages in the fourth year of
26 employment.

27 (5) Ten percent of qualified wages in the fifth year of
28 employment.

29 (b) For purposes of this section:

30 (1) “Qualified wages” means:

31 (A) That portion of wages paid or incurred by the qualified
32 taxpayer during the taxable year to qualified employees that does
33 not exceed 150 percent of the minimum wage.

34 (B) Wages received during the 60-month period beginning with
35 the first day the employee commences employment with the
36 qualified taxpayer. Reemployment in connection with any increase,
37 including a regularly occurring seasonal increase, in the trade or
38 business operations of the qualified taxpayer does not constitute
39 commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section

1 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
2 Institutions Code, or its successor.

3 (III) Immediately preceding the qualified employee's
4 commencement of employment with the qualified taxpayer, was
5 an economically disadvantaged individual 14 years of age or older.

6 (IV) Immediately preceding the qualified employee's
7 commencement of employment with the qualified taxpayer, was
8 a dislocated worker who meets any of the following:

9 (aa) Has been terminated or laid off or who has received a notice
10 of termination or layoff from employment, is eligible for or has
11 exhausted entitlement to unemployment insurance benefits, and
12 is unlikely to return to his or her previous industry or occupation.

13 (bb) Has been terminated or has received a notice of termination
14 of employment as a result of any permanent closure or any
15 substantial layoff at a plant, facility, or enterprise, including an
16 individual who has not received written notification but whose
17 employer has made a public announcement of the closure or layoff.

18 (cc) Is long-term unemployed and has limited opportunities for
19 employment or reemployment in the same or a similar occupation
20 in the area in which the individual resides, including an individual
21 55 years of age or older who may have substantial barriers to
22 employment by reason of age.

23 (dd) Was self-employed (including farmers and ranchers) and
24 is unemployed as a result of general economic conditions in the
25 community in which he or she resides or because of natural
26 disasters.

27 (ee) Was a civilian employee of the Department of Defense
28 employed at a military installation being closed or realigned under
29 the Defense Base Closure and Realignment Act of 1990.

30 (ff) Was an active member of the Armed Forces or National
31 Guard as of September 30, 1990, and was either involuntarily
32 separated or separated pursuant to a special benefits program.

33 (gg) Is a seasonal or migrant worker who experiences chronic
34 seasonal unemployment and underemployment in the agriculture
35 industry, aggravated by continual advancements in technology and
36 mechanization.

37 (hh) Has been terminated or laid off, or has received a notice
38 of termination or layoff, as a consequence of compliance with the
39 Clean Air Act.

1 (V) Immediately preceding the qualified employee's
2 commencement of employment with the qualified taxpayer, was
3 a disabled individual who is eligible for or enrolled in, or has
4 completed a state rehabilitation plan or is a service-connected
5 disabled veteran, veteran of the Vietnam era, or veteran who is
6 recently separated from military service.

7 (VI) Immediately preceding the qualified employee's
8 commencement of employment with the qualified taxpayer, was
9 an ex-offender. An individual shall be treated as convicted if he
10 or she was placed on probation by a state court without a finding
11 of guilty.

12 (VII) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 a person eligible for or a recipient of any of the following:

15 (aa) Federal Supplemental Security Income benefits.

16 (bb) Aid to Families with Dependent Children.

17 (cc) Food stamps.

18 (dd) State and local general assistance.

19 (VIII) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 a member of a federally recognized Indian tribe, band, or other
22 group of Native American descent.

23 (IX) Immediately preceding the qualified employee's
24 commencement of employment with the qualified taxpayer, was
25 a resident of a targeted tax area.

26 (X) Immediately preceding the qualified employee's
27 commencement of employment with the taxpayer, was a member
28 of a targeted group as defined in Section 51(d) of the Internal
29 Revenue Code, or its successor.

30 (B) Priority for employment shall be provided to an individual
31 who is enrolled in a qualified program under the federal Job
32 Training Partnership Act or the Greater Avenues for Independence
33 Act of 1985 or who is eligible as a member of a targeted group
34 under the Work Opportunity Tax Credit (Section 51 of the Internal
35 Revenue Code), or its successor.

36 (5) (A) "Qualified taxpayer" means a person or entity that meets
37 both of the following:

38 (i) Is engaged in a trade or business within a targeted tax area
39 designated pursuant to Chapter 12.93 (commencing with Section
40 7097) of Division 7 of Title 1 of the Government Code.

1 (ii) Is engaged in those lines of business described in Codes
2 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
3 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
4 of the Standard Industrial Classification (SIC) Manual published
5 by the United States Office of Management and Budget, 1987
6 edition.

7 (B) In the case of any passthrough entity, the determination of
8 whether a taxpayer is a qualified taxpayer under this section shall
9 be made at the entity level and any credit under this section or
10 Section 23634 shall be allowed to the passthrough entity and passed
11 through to the partners or shareholders in accordance with
12 applicable provisions of this part or Part 11 (commencing with
13 Section 23001). For purposes of this subdivision, the term
14 “passthrough entity” means any partnership or S corporation.

15 (6) “Seasonal employment” means employment by a qualified
16 taxpayer that has regular and predictable substantial reductions in
17 trade or business operations.

18 (c) If the qualified taxpayer is allowed a credit for qualified
19 wages pursuant to this section, only one credit shall be allowed to
20 the taxpayer under this part with respect to those qualified wages.

21 (d) The qualified taxpayer shall do both of the following:

22 (1) Obtain from the Employment Development Department, as
23 permitted by federal law, the local county or city Job Training
24 Partnership Act administrative entity, the local county GAIN office
25 or social services agency, or the local government administering
26 the targeted tax area, a certification that provides that a qualified
27 employee meets the eligibility requirements specified in clause
28 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
29 Employment Development Department may provide preliminary
30 screening and referral to a certifying agency. The Department of
31 Housing and Community Development shall develop regulations
32 governing the issuance of certificates pursuant to ~~subdivision (g)~~
33 ~~of~~ Section 7097 of the Government Code, and shall develop forms
34 for this purpose.

35 (2) Retain a copy of the certification and provide it upon request
36 to the Franchise Tax Board.

37 (e) (1) For purposes of this section:

38 (A) All employees of trades or businesses, which are not
39 incorporated, that are under common control shall be treated as
40 employed by a single taxpayer.

1 (B) The credit, if any, allowable by this section with respect to
2 each trade or business shall be determined by reference to its
3 proportionate share of the expense of the qualified wages giving
4 rise to the credit, and shall be allocated in that manner.

5 (C) Principles that apply in the case of controlled groups of
6 corporations, as specified in subdivision (d) of Section 23634,
7 shall apply with respect to determining employment.

8 (2) If an employer acquires the major portion of a trade or
9 business of another employer (hereinafter in this paragraph referred
10 to as the “predecessor”) or the major portion of a separate unit of
11 a trade or business of a predecessor, then, for purposes of applying
12 this section (other than subdivision (f)) for any calendar year ending
13 after that acquisition, the employment relationship between a
14 qualified employee and an employer shall not be treated as
15 terminated if the employee continues to be employed in that trade
16 or business.

17 (f) (1) (A) If the employment, other than seasonal employment,
18 of any qualified employee, with respect to whom qualified wages
19 are taken into account under subdivision (a) is terminated by the
20 qualified taxpayer at any time during the first 270 days of that
21 employment (whether or not consecutive) or before the close of
22 the 270th calendar day after the day in which that employee
23 completes 90 days of employment with the qualified taxpayer, the
24 tax imposed by this part for the taxable year in which that
25 employment is terminated shall be increased by an amount equal
26 to the credit allowed under subdivision (a) for that taxable year
27 and all prior taxable years attributable to qualified wages paid or
28 incurred with respect to that employee.

29 (B) If the seasonal employment of any qualified employee, with
30 respect to whom qualified wages are taken into account under
31 subdivision (a) is not continued by the qualified taxpayer for a
32 period of 270 days of employment during the 60-month period
33 beginning with the day the qualified employee commences seasonal
34 employment with the qualified taxpayer, the tax imposed by this
35 part, for the taxable year that includes the 60th month following
36 the month in which the qualified employee commences seasonal
37 employment with the qualified taxpayer, shall be increased by an
38 amount equal to the credit allowed under subdivision (a) for that
39 taxable year and all prior taxable years attributable to qualified
40 wages paid or incurred with respect to that qualified employee.

1 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
2 any of the following:

3 (i) A termination of employment of a qualified employee who
4 voluntarily leaves the employment of the qualified taxpayer.

5 (ii) A termination of employment of a qualified employee who,
6 before the close of the period referred to in subparagraph (A) of
7 paragraph (1), becomes disabled and unable to perform the services
8 of that employment, unless that disability is removed before the
9 close of that period and the qualified taxpayer fails to offer
10 reemployment to that employee.

11 (iii) A termination of employment of a qualified employee, if
12 it is determined that the termination was due to the misconduct (as
13 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
14 the California Code of Regulations) of that employee.

15 (iv) A termination of employment of a qualified employee due
16 to a substantial reduction in the trade or business operations of the
17 qualified taxpayer.

18 (v) A termination of employment of a qualified employee, if
19 that employee is replaced by other qualified employees so as to
20 create a net increase in both the number of employees and the
21 hours of employment.

22 (B) Subparagraph (B) of paragraph (1) shall not apply to any
23 of the following:

24 (i) A failure to continue the seasonal employment of a qualified
25 employee who voluntarily fails to return to the seasonal
26 employment of the qualified taxpayer.

27 (ii) A failure to continue the seasonal employment of a qualified
28 employee who, before the close of the period referred to in
29 subparagraph (B) of paragraph (1), becomes disabled and unable
30 to perform the services of that seasonal employment, unless that
31 disability is removed before the close of that period and the
32 qualified taxpayer fails to offer seasonal employment to that
33 qualified employee.

34 (iii) A failure to continue the seasonal employment of a qualified
35 employee, if it is determined that the failure to continue the
36 seasonal employment was due to the misconduct (as defined in
37 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
38 Code of Regulations) of that qualified employee.

1 (iv) A failure to continue seasonal employment of a qualified
2 employee due to a substantial reduction in the regular seasonal
3 trade or business operations of the qualified taxpayer.

4 (v) A failure to continue the seasonal employment of a qualified
5 employee, if that qualified employee is replaced by other qualified
6 employees so as to create a net increase in both the number of
7 seasonal employees and the hours of seasonal employment.

8 (C) For purposes of paragraph (1), the employment relationship
9 between the qualified taxpayer and a qualified employee shall not
10 be treated as terminated by reason of a mere change in the form
11 of conducting the trade or business of the qualified taxpayer, if the
12 qualified employee continues to be employed in that trade or
13 business and the qualified taxpayer retains a substantial interest
14 in that trade or business.

15 (3) Any increase in tax under paragraph (1) shall not be treated
16 as tax imposed by this part for purposes of determining the amount
17 of any credit allowable under this part.

18 (g) In the case of an estate or trust, both of the following apply:

19 (1) The qualified wages for any taxable year shall be apportioned
20 between the estate or trust and the beneficiaries on the basis of the
21 income of the estate or trust allocable to each.

22 (2) Any beneficiary to whom any qualified wages have been
23 apportioned under paragraph (1) shall be treated, for purposes of
24 this part, as the employer with respect to those wages.

25 (h) For purposes of this section, “targeted tax area” means an
26 area designated pursuant to Chapter 12.93 (commencing with
27 Section 7097) of Division 7 of Title 1 of the Government Code.

28 (i) In the case where the credit otherwise allowed under this
29 section exceeds the “net tax” for the taxable year, that portion of
30 the credit that exceeds the “net tax” may be carried over and added
31 to the credit, if any, in succeeding taxable years, until the credit is
32 exhausted. The credit shall be applied first to the earliest taxable
33 years possible.

34 (j) (1) The amount of the credit otherwise allowed under this
35 section and Section 17053.33, including any credit carryover from
36 prior years, that may reduce the “net tax” for the taxable year shall
37 not exceed the amount of tax that would be imposed on the
38 qualified taxpayer’s business income attributable to the targeted
39 tax area determined as if that attributable income represented all

1 of the income of the qualified taxpayer subject to tax under this
2 part.

3 (2) Attributable income shall be that portion of the taxpayer's
4 California source business income that is apportioned to the
5 targeted tax area. For that purpose, the taxpayer's business income
6 attributable to sources in this state first shall be determined in
7 accordance with Chapter 17 (commencing with Section 25101) of
8 Part 11. That business income shall be further apportioned to the
9 targeted tax area in accordance with Article 2 (commencing with
10 Section 25120) of Chapter 17 of Part 11, modified for purposes
11 of this section in accordance with paragraph (3).

12 (3) Business income shall be apportioned to the targeted tax
13 area by multiplying the total California business income of the
14 taxpayer by a fraction, the numerator of which is the property
15 factor plus the payroll factor, and the denominator of which is two.
16 For purposes of this paragraph:

17 (A) The property factor is a fraction, the numerator of which is
18 the average value of the taxpayer's real and tangible personal
19 property owned or rented and used in the targeted tax area during
20 the taxable year, and the denominator of which is the average value
21 of all the taxpayer's real and tangible personal property owned or
22 rented and used in this state during the taxable year.

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the targeted tax area during
25 the taxable year for compensation, and the denominator of which
26 is the total compensation paid by the taxpayer in this state during
27 the taxable year.

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, as if it were an amount exceeding the "net tax" for the
31 taxable year, as provided in subdivision (h).

32 (5) In the event that a credit carryover is allowable under
33 subdivision (h) for any taxable year after the targeted tax area
34 expiration date, the targeted tax area shall be deemed to remain in
35 existence for purposes of computing the limitation specified in
36 this subdivision.

37 (k) (1) *This section shall cease to be operative for taxable years*
38 *beginning on or after January 1, 2011.*

39 (2) *In the case of any portion of a credit available for carryover*
40 *to a taxable year beginning on or after January 1, 2011, under*

1 *subdivision (i), as that subdivision read prior to the amendments*
2 *made by the act adding this subdivision, neither that subdivision*
3 *nor subdivision (d) of Section 17039 shall apply, and those unused*
4 *credit amounts shall not be carried over to any taxable year*
5 *beginning on or after January 1, 2011.*

6 *(l) This section shall be repealed as of December 1, 2011.*

7 *SEC. 4. Section 17053.45 of the Revenue and Taxation Code*
8 *is amended to read:*

9 17053.45. (a) For each taxable year beginning on or after
10 January 1, 1995, there shall be allowed as a credit against the “net
11 tax” (as defined by Section 17039) an amount equal to the sales
12 or use tax paid or incurred by the taxpayer in connection with the
13 purchase of qualified property to the extent that the qualified
14 property does not exceed a value of one million dollars
15 (\$1,000,000).

16 (b) For purposes of this section:

17 (1) “LAMBRA” means a local agency military base recovery
18 area designated in accordance with Section 7114 of the Government
19 Code.

20 (2) “Taxpayer” means a taxpayer that conducts a trade or
21 business within a LAMBRA and, for the first two taxable years,
22 has a net increase in jobs (defined as 2,000 paid hours per employee
23 per year) of one or more employees in the LAMBRA.

24 (A) The net increase in the number of jobs shall be determined
25 by subtracting the total number of full-time employees (defined
26 as 2,000 paid hours per employee per year) the taxpayer employed
27 in this state in the taxable year prior to commencing business
28 operations in the LAMBRA from the total number of full-time
29 employees the taxpayer employed in this state during the second
30 taxable year after commencing business operations in the
31 LAMBRA. For taxpayers who commence doing business in this
32 state with their LAMBRA business operation, the number of
33 employees for the taxable year prior to commencing business
34 operations in the LAMBRA shall be zero. If the taxpayer has a net
35 increase in jobs in the state, the credit shall be allowed only if one
36 or more full-time employees is employed within the LAMBRA.

37 (B) The total number of employees employed in the LAMBRA
38 shall equal the sum of both of the following:

1 (i) The total number of hours worked in the LAMBRA for the
2 taxpayer by employees (not to exceed 2,000 hours per employee)
3 who are paid an hourly wage divided by 2,000.

4 (ii) The total number of months worked in the LAMBRA for
5 the taxpayer by employees who are salaried employees divided
6 by 12.

7 (C) In the case of a taxpayer who first commences doing
8 business in the LAMBRA during the taxable year, for purposes of
9 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
10 “2,000” and “12” shall be multiplied by a fraction, the numerator
11 of which is the number of months of the taxable year that the
12 taxpayer was doing business in the LAMBRA and the denominator
13 of which is 12.

14 (3) “Qualified property” means property that is each of the
15 following:

16 (A) Purchased by the taxpayer for exclusive use in a trade or
17 business conducted within a LAMBRA.

18 (B) Purchased before the date the LAMBRA designation expires,
19 is no longer binding, or becomes inoperative.

20 (C) Any of the following:

21 (i) High technology equipment, including, but not limited to,
22 computers and electronic processing equipment.

23 (ii) Aircraft maintenance equipment, including, but not limited
24 to, engine stands, hydraulic mules, power carts, test equipment,
25 handtools, aircraft start carts, and tugs.

26 (iii) Aircraft components, including, but not limited to, engines,
27 fuel control units, hydraulic pumps, avionics, starts, wheels, and
28 tires.

29 (iv) Section 1245 property, as defined in Section 1245(a)(3) of
30 the Internal Revenue Code.

31 (c) The credit provided under subdivision (a) shall be allowed
32 only for qualified property manufactured in California unless
33 qualified property of a comparable quality and price is not available
34 for timely purchase and delivery from a California manufacturer.

35 (d) In the case where the credit otherwise allowed under this
36 section exceeds the “net tax” for the taxable year, that portion of
37 the credit which exceeds the “net tax” may be carried over and
38 added to the credit, if any, in succeeding years, until the credit is
39 exhausted. The credit shall be applied first to the earliest taxable
40 years possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to increase the basis of the property as otherwise required by Section 164(a) of the Internal Revenue Code with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) (1) The amount of credit otherwise allowed under this section and Section 17053.46, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributed to a LAMBRA determined as if that attributable income represented all the income of the taxpayer subject to tax under this part.

(2) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer’s business income that is attributable to sources in this state shall first be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, as modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor, plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable

1 years, as if it were an amount exceeding the “net tax” for the
2 taxable year, as provided in subdivision (d).

3 (g) (1) If the qualified property is disposed of or no longer used
4 by the taxpayer in the LAMBRA, at any time before the close of
5 the second taxable year after the property is placed in service, the
6 amount of the credit previously claimed, with respect to that
7 property, shall be added to the taxpayer’s tax liability in the taxable
8 year of that disposition or nonuse.

9 (2) At the close of the second taxable year, if the taxpayer has
10 not increased the number of its employees as determined by
11 paragraph (2) of subdivision (b), then the amount of the credit
12 previously claimed shall be added to the taxpayer’s net tax for the
13 taxpayer’s second taxable year.

14 (h) If the taxpayer is allowed a credit for qualified property
15 pursuant to this section, only one credit shall be allowed to the
16 taxpayer under this part with respect to that qualified property.

17 (i) The amendments made to this section by the act adding this
18 subdivision shall apply to taxable years beginning on or after
19 January 1, 1998.

20 (j) (1) *This section shall cease to be operative for taxable years*
21 *beginning on or after January 1, 2011.*

22 (2) *In the case of any portion of a credit available for carryover*
23 *to a taxable year beginning on or after January 1, 2011, under*
24 *subdivision (d), as that subdivision read prior to the amendments*
25 *made by the act adding this subdivision, neither that subdivision*
26 *nor subdivision (d) of Section 17039 shall apply, and those unused*
27 *credit amounts shall not be carried over to any taxable year*
28 *beginning on or after January 1, 2011.*

29 (k) *This section shall be repealed as of December 1, 2011.*

30 SEC. 5. *Section 17053.46 of the Revenue and Taxation Code*
31 *is amended to read:*

32 17053.46. (a) For each taxable year beginning on or after
33 January 1, 1995, there shall be allowed as a credit against the “net
34 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
35 a qualified disadvantaged individual or a qualified displaced
36 employee during the taxable year for employment in the LAMBRA.
37 The credit shall be equal to the sum of each of the following:

38 (1) Fifty percent of the qualified wages in the first year of
39 employment.

1 (2) Forty percent of the qualified wages in the second year of
2 employment.

3 (3) Thirty percent of the qualified wages in the third year of
4 employment.

5 (4) Twenty percent of the qualified wages in the fourth year of
6 employment.

7 (5) Ten percent of the qualified wages in the fifth year of
8 employment.

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

11 (A) That portion of wages paid or incurred by the employer
12 during the taxable year to qualified disadvantaged individuals or
13 qualified displaced employees that does not exceed 150 percent
14 of the minimum wage.

15 (B) The total amount of qualified wages which may be taken
16 into account for purposes of claiming the credit allowed under this
17 section shall not exceed two million dollars (\$2,000,000) per
18 taxable year.

19 (C) Wages received during the 60-month period beginning with
20 the first day the individual commences employment with the
21 taxpayer. Reemployment in connection with any increase, including
22 a regularly occurring seasonal increase, in the trade or business
23 operations of the qualified taxpayer does not constitute
24 commencement of employment for purposes of this section.

25 (D) Qualified wages do not include any wages paid or incurred
26 by the qualified taxpayer on or after the LAMBRA expiration date.
27 However, wages paid or incurred with respect to qualified
28 disadvantaged individuals or qualified displaced employees who
29 are employed by the qualified taxpayer within the LAMBRA within
30 the 60-month period prior to the LAMBRA expiration date shall
31 continue to qualify for the credit under this section after the
32 LAMBRA expiration date, in accordance with all provisions of
33 this section applied as if the LAMBRA designation were still in
34 existence and binding.

35 (2) “Minimum wage” means the wage established by the
36 Industrial Welfare Commission as provided for in Chapter 1
37 (commencing with Section 1171) of Part 4 of Division 2 of the
38 Labor Code.

1 (3) “LAMBRA” means a local agency military base recovery
2 area designated in accordance with Section 7114 of the Government
3 Code.

4 (4) “Qualified disadvantaged individual” means an individual
5 who satisfies all of the following requirements:

6 (A) (i) At least 90 percent of whose services for the taxpayer
7 during the taxable year are directly related to the conduct of the
8 taxpayer’s trade or business located in a LAMBRA.

9 (ii) Who performs at least 50 percent of his or her services for
10 the taxpayer during the taxable year in the LAMBRA.

11 (B) Who is hired by the employer after the designation of the
12 area as a LAMBRA in which the individual’s services were
13 primarily performed.

14 (C) Who is any of the following immediately preceding the
15 individual’s commencement of employment with the taxpayer:

16 (i) An individual who has been determined eligible for services
17 under the federal Job Training Partnership Act (29 U.S.C. Sec.
18 1501 et seq.).

19 (ii) Any voluntary or mandatory registrant under the Greater
20 Avenues for Independence Act of 1985 as provided pursuant to
21 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
22 3 of Division 9 of the Welfare and Institutions Code.

23 (iii) An economically disadvantaged individual age 16 years or
24 older.

25 (iv) A dislocated worker who meets any of the following
26 conditions:

27 (I) Has been terminated or laid off or who has received a notice
28 of termination or layoff from employment, is eligible for or has
29 exhausted entitlement to unemployment insurance benefits, and
30 is unlikely to return to his or her previous industry or occupation.

31 (II) Has been terminated or has received a notice of termination
32 of employment as a result of any permanent closure or any
33 substantial layoff at a plant, facility, or enterprise, including an
34 individual who has not received written notification but whose
35 employer has made a public announcement of the closure or layoff.

36 (III) Is long-term unemployed and has limited opportunities for
37 employment or reemployment in the same or a similar occupation
38 in the area in which the individual resides, including an individual
39 55 years of age or older who may have substantial barriers to
40 employment by reason of age.

1 (IV) Was self-employed (including farmers and ranchers) and
2 is unemployed as a result of general economic conditions in the
3 community in which he or she resides or because of natural
4 disasters.

5 (V) Was a civilian employee of the Department of Defense
6 employed at a military installation being closed or realigned under
7 the Defense Base Closure and Realignment Act of 1990.

8 (VI) Was an active member of the Armed Forces or National
9 Guard as of September 30, 1990, and was either involuntarily
10 separated or separated pursuant to a special benefits program.

11 (VII) Experiences chronic seasonal unemployment and
12 underemployment in the agriculture industry, aggravated by
13 continual advancements in technology and mechanization.

14 (VIII) Has been terminated or laid off or has received a notice
15 of termination or layoff as a consequence of compliance with the
16 Clean Air Act.

17 (v) An individual who is enrolled in or has completed a state
18 rehabilitation plan or is a service-connected disabled veteran,
19 veteran of the Vietnam era, or veteran who is recently separated
20 from military service.

21 (vi) An ex-offender. An individual shall be treated as convicted
22 if he or she was placed on probation by a state court without a
23 finding of guilty.

24 (vii) A recipient of:

25 (I) Federal Supplemental Security Income benefits.

26 (II) Aid to Families with Dependent Children.

27 (III) Food stamps.

28 (IV) State and local general assistance.

29 (viii) Is a member of a federally recognized Indian tribe, band,
30 or other group of Native American descent.

31 (5) “Qualified taxpayer” means a taxpayer or partnership that
32 conducts a trade or business within a LAMBRA and, for the first
33 two taxable years, has a net increase in jobs (defined as 2,000 paid
34 hours per employee per year) of one or more employees in the
35 LAMBRA.

36 (A) The net increase in the number of jobs shall be determined
37 by subtracting the total number of full-time employees (defined
38 as 2,000 paid hours per employee per year) the taxpayer employed
39 in this state in the taxable year prior to commencing business
40 operations in the LAMBRA from the total number of full-time

1 employees the taxpayer employed in this state during the second
2 taxable year after commencing business operations in the
3 LAMBRA. For taxpayers who commence doing business in this
4 state with their LAMBRA business operation, the number of
5 employees for the taxable year prior to commencing business
6 operations in the LAMBRA shall be zero. If the taxpayer has a net
7 increase in jobs in the state, the credit shall be allowed only if one
8 or more full-time employees is employed within the LAMBRA.

9 (B) The total number of employees employed in the LAMBRA
10 shall equal the sum of both of the following:

11 (i) The total number of hours worked in the LAMBRA for the
12 taxpayer by employees (not to exceed 2,000 hours per employee)
13 who are paid an hourly wage divided by 2,000.

14 (ii) The total number of months worked in the LAMBRA for
15 the taxpayer by employees who are salaried employees divided
16 by 12.

17 (C) In the case of a taxpayer who first commences doing
18 business in the LAMBRA during the taxable year, for purposes of
19 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
20 “2,000” and “12” shall be multiplied by a fraction, the numerator
21 of which is the number of months of the taxable year that the
22 taxpayer was doing business in the LAMBRA and the denominator
23 of which is 12.

24 (6) “Qualified displaced employee” means an individual who
25 satisfies all of the following requirements:

26 (A) Any civilian or military employee of a base or former base
27 who has been displaced as a result of a federal base closure act.

28 (B) (i) At least 90 percent of whose services for the taxpayer
29 during the taxable year are directly related to the conduct of the
30 taxpayer’s trade or business located in a LAMBRA.

31 (ii) Who performs at least 50 percent of his or her services for
32 the taxpayer during the taxable year in a LAMBRA.

33 (C) Who is hired by the employer after the designation of the
34 area in which services were performed as a LAMBRA.

35 (7) “Seasonal employment” means employment by a qualified
36 taxpayer that has regular and predictable substantial reductions in
37 trade or business operations.

38 (8) “LAMBRA expiration date” means the date the LAMBRA
39 designation expires, is no longer binding, or becomes inoperative.

1 (c) For qualified disadvantaged individuals or qualified displaced
2 employees hired on or after January 1, 2001, the taxpayer shall do
3 both of the following:

4 (1) Obtain from the Employment Development Department, as
5 permitted by federal law, the local county or city Job Training
6 Partnership Act administrative entity, the local county GAIN office
7 or social services agency, or the local government administering
8 the LAMBRA, a certification that provides that a qualified
9 disadvantaged individual or qualified displaced employee meets
10 the eligibility requirements specified in subparagraph (C) of
11 paragraph (4) of subdivision (b) or subparagraph (A) of paragraph
12 (6) of subdivision (b). The Employment Development Department
13 may provide preliminary screening and referral to a certifying
14 agency. The Department of Housing and Community Development
15 shall develop regulations governing the issuance of certificates
16 pursuant to Section 7114.2 of the Government Code and shall
17 develop forms for this purpose.

18 (2) Retain a copy of the certification and provide it upon request
19 to the Franchise Tax Board.

20 (d) (1) For purposes of this section, both of the following apply:

21 (A) All employees of trades or businesses that are under
22 common control shall be treated as employed by a single employer.

23 (B) The credit (if any) allowable by this section with respect to
24 each trade or business shall be determined by reference to its
25 proportionate share of the qualified wages giving rise to the credit.

26 The regulations prescribed under this paragraph shall be based
27 on principles similar to the principles that apply in the case of
28 controlled groups of corporations specified in subdivision ~~(e)~~ (d)
29 of Section ~~23622~~ 23622.7.

30 (2) If an employer acquires the major portion of a trade or
31 business of another employer (hereinafter in this paragraph referred
32 to as the “predecessor”) or the major portion of a separate unit of
33 a trade or business of a predecessor, then, for purposes of applying
34 this section (other than subdivision (d)) for any calendar year
35 ending after that acquisition, the employment relationship between
36 an employee and an employer shall not be treated as terminated if
37 the employee continues to be employed in that trade or business.

38 (e) (1) (A) If the employment, other than seasonal employment,
39 of any employee, with respect to whom qualified wages are taken
40 into account under subdivision (a) is terminated by the taxpayer

1 at any time during the first 270 days of that employment (whether
2 or not consecutive) or before the close of the 270th calendar day
3 after the day in which that employee completes 90 days of
4 employment with the taxpayer, the tax imposed by this part for
5 the taxable year in which that employment is terminated shall be
6 increased by an amount (determined under those regulations) equal
7 to the credit allowed under subdivision (a) for that taxable year
8 and all prior taxable years attributable to qualified wages paid or
9 incurred with respect to that employee.

10 (B) If the seasonal employment of any qualified disadvantaged
11 individual, with respect to whom qualified wages are taken into
12 account under subdivision (a) is not continued by the qualified
13 taxpayer for a period of 270 days of employment during the
14 60-month period beginning with the day the qualified
15 disadvantaged individual commences seasonal employment with
16 the qualified taxpayer, the tax imposed by this part, for the taxable
17 year that includes the 60th month following the month in which
18 the qualified disadvantaged individual commences seasonal
19 employment with the qualified taxpayer, shall be increased by an
20 amount equal to the credit allowed under subdivision (a) for that
21 taxable year and all prior taxable years attributable to qualified
22 wages paid or incurred with respect to that qualified disadvantaged
23 individual.

24 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
25 any of the following:

26 (i) A termination of employment of an employee who voluntarily
27 leaves the employment of the taxpayer.

28 (ii) A termination of employment of an individual who, before
29 the close of the period referred to in subparagraph (A) of paragraph
30 (1), becomes disabled to perform the services of that employment,
31 unless that disability is removed before the close of that period
32 and the taxpayer fails to offer reemployment to that individual.

33 (iii) A termination of employment of an individual, if it is
34 determined that the termination was due to the misconduct (as
35 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
36 the California Code of Regulations) of that individual.

37 (iv) A termination of employment of an individual due to a
38 substantial reduction in the trade or business operations of the
39 taxpayer.

1 (v) A termination of employment of an individual, if that
2 individual is replaced by other qualified employees so as to create
3 a net increase in both the number of employees and the hours of
4 employment.

5 (B) Subparagraph (B) of paragraph (1) shall not apply to any
6 of the following:

7 (i) A failure to continue the seasonal employment of a qualified
8 disadvantaged individual who voluntarily fails to return to the
9 seasonal employment of the qualified taxpayer.

10 (ii) A failure to continue the seasonal employment of a qualified
11 disadvantaged individual who, before the close of the period
12 referred to in subparagraph (B) of paragraph (1), becomes disabled
13 and unable to perform the services of that seasonal employment,
14 unless that disability is removed before the close of that period
15 and the qualified taxpayer fails to offer seasonal employment to
16 that individual.

17 (iii) A failure to continue the seasonal employment of a qualified
18 disadvantaged individual, if it is determined that the failure to
19 continue the seasonal employment was due to the misconduct (as
20 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
21 the California Code of Regulations) of that qualified disadvantaged
22 individual.

23 (iv) A failure to continue seasonal employment of a qualified
24 disadvantaged individual due to a substantial reduction in the
25 regular seasonal trade or business operations of the qualified
26 taxpayer.

27 (v) A failure to continue the seasonal employment of a qualified
28 disadvantaged individual, if that individual is replaced by other
29 qualified displaced employees so as to create a net increase in both
30 the number of seasonal employees and the hours of seasonal
31 employment.

32 (C) For purposes of paragraph (1), the employment relationship
33 between the taxpayer and an employee shall not be treated as
34 terminated by reason of a mere change in the form of conducting
35 the trade or business of the taxpayer, if the employee continues to
36 be employed in that trade or business and the taxpayer retains a
37 substantial interest in that trade or business.

38 (3) Any increase in tax under paragraph (1) shall not be treated
39 as tax imposed by this part for purposes of determining the amount
40 of any credit allowable under this part.

1 (4) At the close of the second taxable year, if the taxpayer has
2 not increased the number of its employees as determined by
3 paragraph (5) of subdivision (b), then the amount of the credit
4 previously claimed shall be added to the taxpayer's net tax for the
5 taxpayer's second taxable year.

6 (f) In the case of an estate or trust, both of the following apply:

7 (1) The qualified wages for any taxable year shall be apportioned
8 between the estate or trust and the beneficiaries on the basis of the
9 income of the estate or trust allocable to each.

10 (2) Any beneficiary to whom any qualified wages have been
11 apportioned under paragraph (1) shall be treated (for purposes of
12 this part) as the employer with respect to those wages.

13 (g) The credit shall be reduced by the credit allowed under
14 Section 17053.7. The credit shall also be reduced by the federal
15 credit allowed under Section 51 of the Internal Revenue Code.

16 In addition, any deduction otherwise allowed under this part for
17 the wages or salaries paid or incurred by the taxpayer upon which
18 the credit is based shall be reduced by the amount of the credit,
19 prior to any reduction required by subdivision (h) or (i).

20 (h) In the case where the credit otherwise allowed under this
21 section exceeds the "net tax" for the taxable year, that portion of
22 the credit that exceeds the "net tax" may be carried over and added
23 to the credit, if any, in succeeding years, until the credit is
24 exhausted. The credit shall be applied first to the earliest taxable
25 years possible.

26 (i) (1) The amount of credit otherwise allowed under this section
27 and Section 17053.45, including prior year credit carryovers, that
28 may reduce the "net tax" for the taxable year shall not exceed the
29 amount of tax that would be imposed on the taxpayer's business
30 income attributed to a LAMBRA determined as if that attributed
31 income represented all of the net income of the taxpayer subject
32 to tax under this part.

33 (2) Attributable income shall be that portion of the taxpayer's
34 California source business income that is apportioned to the
35 LAMBRA. For that purpose, the taxpayer's business income that
36 is attributable to sources in this state first shall be determined in
37 accordance with Chapter 17 (commencing with Section 25101) of
38 Part 11. That business income shall be further apportioned to the
39 LAMBRA in accordance with Article 2 (commencing with Section

25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (h), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (d) of Section 17039 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(l) This section shall be repealed as of December 1, 2011.

SEC. 6. Section 17053.47 of the Revenue and Taxation Code is amended to read:

17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net

1 tax” (as defined in Section 17039) to a qualified taxpayer for hiring
2 a qualified disadvantaged individual during the taxable year for
3 employment in the manufacturing enhancement area. The credit
4 shall be equal to the sum of each of the following:

5 (1) Fifty percent of the qualified wages in the first year of
6 employment.

7 (2) Forty percent of the qualified wages in the second year of
8 employment.

9 (3) Thirty percent of the qualified wages in the third year of
10 employment.

11 (4) Twenty percent of the qualified wages in the fourth year of
12 employment.

13 (5) Ten percent of the qualified wages in the fifth year of
14 employment.

15 (b) For purposes of this section:

16 (1) “Qualified wages” means:

17 (A) That portion of wages paid or incurred by the qualified
18 taxpayer during the taxable year to qualified disadvantaged
19 individuals that does not exceed 150 percent of the minimum wage.

20 (B) The total amount of qualified wages which may be taken
21 into account for purposes of claiming the credit allowed under this
22 section shall not exceed two million dollars (\$2,000,000) per
23 taxable year.

24 (C) Wages received during the 60-month period beginning with
25 the first day the qualified disadvantaged individual commences
26 employment with the qualified taxpayer. Reemployment in
27 connection with any increase, including a regularly occurring
28 seasonal increase, in the trade or business operations of the taxpayer
29 does not constitute commencement of employment for purposes
30 of this section.

31 (D) Qualified wages do not include any wages paid or incurred
32 by the qualified taxpayer on or after the manufacturing
33 enhancement area expiration date. However, wages paid or incurred
34 with respect to qualified employees who are employed by the
35 qualified taxpayer within the manufacturing enhancement area
36 within the 60-month period prior to the manufacturing enhancement
37 area expiration date shall continue to qualify for the credit under
38 this section after the manufacturing enhancement area expiration
39 date, in accordance with all provisions of this section applied as

1 if the manufacturing enhancement area designation were still in
2 existence and binding.

3 (2) “Minimum wage” means the wage established by the
4 Industrial Welfare Commission as provided for in Chapter 1
5 (commencing with Section 1171) of Part 4 of Division 2 of the
6 Labor Code.

7 (3) “Manufacturing enhancement area” means an area designated
8 pursuant to Section 7073.8 of the Government Code according to
9 the procedures of Chapter 12.8 (commencing with Section 7070)
10 of Division 7 of Title 1 of the Government Code.

11 (4) “Manufacturing enhancement area expiration date” means
12 the date the manufacturing enhancement area designation expires,
13 is no longer binding, or becomes inoperative.

14 (5) “Qualified disadvantaged individual” means an individual
15 who satisfies all of the following requirements:

16 (A) (i) At least 90 percent of whose services for the qualified
17 taxpayer during the taxable year are directly related to the conduct
18 of the qualified taxpayer’s trade or business located in a
19 manufacturing enhancement area.

20 (ii) Who performs at least 50 percent of his or her services for
21 the qualified taxpayer during the taxable year in the manufacturing
22 enhancement area.

23 (B) Who is hired by the qualified taxpayer after the designation
24 of the area as a manufacturing enhancement area in which the
25 individual’s services were primarily performed.

26 (C) Who is any of the following immediately preceding the
27 individual’s commencement of employment with the qualified
28 taxpayer:

29 (i) An individual who has been determined eligible for services
30 under the federal Job Training Partnership Act (29 U.S.C. Sec.
31 1501 et seq.), or its successor.

32 (ii) Any voluntary or mandatory registrant under the Greater
33 Avenues for Independence Act of 1985, or its successor, as
34 provided pursuant to Article 3.2 (commencing with Section 11320)
35 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
36 Code.

37 (iii) Any individual who has been certified eligible by the
38 Employment Development Department under the federal Targeted
39 Jobs Tax Credit Program, or its successor, whether or not this
40 program is in effect.

1 (6) “Qualified taxpayer” means any taxpayer engaged in a trade
2 or business within a manufacturing enhancement area designated
3 pursuant to Section 7073.8 of the Government Code and who meets
4 all of the following requirements:

5 (A) Is engaged in those lines of business described in Codes
6 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
7 inclusive, of the Standard Industrial Classification (SIC) Manual
8 published by the United States Office of Management and Budget,
9 1987 edition.

10 (B) At least 50 percent of the qualified taxpayer’s workforce
11 hired after the designation of the manufacturing enhancement area
12 is composed of individuals who, at the time of hire, are residents
13 of the county in which the manufacturing enhancement area is
14 located.

15 (C) Of this percentage of local hires, at least 30 percent shall
16 be qualified disadvantaged individuals.

17 (7) “Seasonal employment” means employment by a qualified
18 taxpayer that has regular and predictable substantial reductions in
19 trade or business operations.

20 (c) (1) For purposes of this section, all of the following apply:

21 (A) All employees of trades or businesses that are under
22 common control shall be treated as employed by a single qualified
23 taxpayer.

24 (B) The credit (if any) allowable by this section with respect to
25 each trade or business shall be determined by reference to its
26 proportionate share of the expense of the qualified wages giving
27 rise to the credit and shall be allocated in that manner.

28 (C) Principles that apply in the case of controlled groups of
29 corporations, as specified in subdivision (d) of Section 23622.7,
30 shall apply with respect to determining employment.

31 (2) If a qualified taxpayer acquires the major portion of a trade
32 or business of another employer (hereinafter in this paragraph
33 referred to as the “predecessor”) or the major portion of a separate
34 unit of a trade or business of a predecessor, then, for purposes of
35 applying this section (other than subdivision (d)) for any calendar
36 year ending after that acquisition, the employment relationship
37 between a qualified disadvantaged individual and a qualified
38 taxpayer shall not be treated as terminated if the qualified
39 disadvantaged individual continues to be employed in that trade
40 or business.

(d) (1) (A) If the employment, other than seasonal employment, of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the

1 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
2 of Title 22 of the California Code of Regulations) of that individual.

3 (iv) A termination of employment of a qualified disadvantaged
4 individual due to a substantial reduction in the trade or business
5 operations of the qualified taxpayer.

6 (v) A termination of employment of a qualified disadvantaged
7 individual, if that individual is replaced by other qualified
8 disadvantaged individuals so as to create a net increase in both the
9 number of employees and the hours of employment.

10 (B) Subparagraph (B) of paragraph (1) shall not apply to any
11 of the following:

12 (i) A failure to continue the seasonal employment of a qualified
13 disadvantaged individual who voluntarily fails to return to the
14 seasonal employment of the qualified taxpayer.

15 (ii) A failure to continue the seasonal employment of a qualified
16 disadvantaged individual who, before the close of the period
17 referred to in subparagraph (B) of paragraph (1), becomes disabled
18 and unable to perform the services of that seasonal employment,
19 unless that disability is removed before the close of that period
20 and the qualified taxpayer fails to offer seasonal employment to
21 that qualified disadvantaged individual.

22 (iii) A failure to continue the seasonal employment of a qualified
23 disadvantaged individual, if it is determined that the failure to
24 continue the seasonal employment was due to the misconduct (as
25 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
26 the California Code of Regulations) of that qualified disadvantaged
27 individual.

28 (iv) A failure to continue seasonal employment of a qualified
29 disadvantaged individual due to a substantial reduction in the
30 regular seasonal trade or business operations of the qualified
31 taxpayer.

32 (v) A failure to continue the seasonal employment of a qualified
33 disadvantaged individual, if that qualified disadvantaged individual
34 is replaced by other qualified disadvantaged individuals so as to
35 create a net increase in both the number of seasonal employees
36 and the hours of seasonal employment.

37 (C) For purposes of paragraph (1), the employment relationship
38 between the qualified taxpayer and a qualified disadvantaged
39 individual shall not be treated as terminated by reason of a mere
40 change in the form of conducting the trade or business of the

1 qualified taxpayer, if the qualified disadvantaged individual
2 continues to be employed in that trade or business and the qualified
3 taxpayer retains a substantial interest in that trade or business.

4 (3) Any increase in tax under paragraph (1) shall not be treated
5 as tax imposed by this part for purposes of determining the amount
6 of any credit allowable under this part.

7 (e) In the case of an estate or trust, both of the following apply:

8 (1) The qualified wages for any taxable year shall be apportioned
9 between the estate or trust and the beneficiaries on the basis of the
10 income of the estate or trust allocable to each.

11 (2) Any beneficiary to whom any qualified wages have been
12 apportioned under paragraph (1) shall be treated (for purposes of
13 this part) as the employer with respect to those wages.

14 (f) The credit shall be reduced by the credit allowed under
15 Section 17053.7. The credit shall also be reduced by the federal
16 credit allowed under Section 51 of the Internal Revenue Code.

17 In addition, any deduction otherwise allowed under this part for
18 the wages or salaries paid or incurred by the qualified taxpayer
19 upon which the credit is based shall be reduced by the amount of
20 the credit, prior to any reduction required by subdivision (g) or
21 (h).

22 (g) In the case where the credit otherwise allowed under this
23 section exceeds the “net tax” for the taxable year, that portion of
24 the credit that exceeds the “net tax” may be carried over and added
25 to the credit, if any, in succeeding years, until the credit is
26 exhausted. The credit shall be applied first to the earliest taxable
27 years possible.

28 (h) (1) The amount of credit otherwise allowed under this
29 section, including prior year credit carryovers, that may reduce
30 the “net tax” for the taxable year shall not exceed the amount of
31 tax that would be imposed on the qualified taxpayer’s business
32 income attributed to a manufacturing enhancement area determined
33 as if that attributed income represented all of the net income of the
34 qualified taxpayer subject to tax under this part.

35 (2) Attributable income shall be that portion of the taxpayer’s
36 California source business income that is apportioned to the
37 manufacturing enhancement area. For that purpose, the taxpayer’s
38 business income that is attributable to sources in this state first
39 shall be determined in accordance with Chapter 17 (commencing
40 with Section 25101) of Part 11. That business income shall be

1 further apportioned to the manufacturing enhancement area in
2 accordance with Article 2 (commencing with Section 25120) of
3 Chapter 17 of Part 11, modified for purposes of this section in
4 accordance with paragraph (3).

5 (3) Income shall be apportioned to a manufacturing enhancement
6 area by multiplying the total California business income of the
7 taxpayer by a fraction, the numerator of which is the property
8 factor plus the payroll factor, and the denominator of which is two.
9 For purposes of this paragraph:

10 (A) The property factor is a fraction, the numerator of which is
11 the average value of the taxpayer's real and tangible personal
12 property owned or rented and used in the manufacturing
13 enhancement area during the taxable year, and the denominator
14 of which is the average value of all the taxpayer's real and tangible
15 personal property owned or rented and used in this state during
16 the taxable year.

17 (B) The payroll factor is a fraction, the numerator of which is
18 the total amount paid by the taxpayer in the manufacturing
19 enhancement area during the taxable year for compensation, and
20 the denominator of which is the total compensation paid by the
21 taxpayer in this state during the taxable year.

22 (4) The portion of any credit remaining, if any, after application
23 of this subdivision, shall be carried over to succeeding taxable
24 years, as if it were an amount exceeding the "net tax" for the
25 taxable year, as provided in subdivision (g).

26 (i) If the taxpayer is allowed a credit pursuant to this section for
27 qualified wages paid or incurred, only one credit shall be allowed
28 to the taxpayer under this part with respect to any wage consisting
29 in whole or in part of those qualified wages.

30 (j) The qualified taxpayer shall do both of the following:

31 (1) Obtain from the Employment Development Department, as
32 permitted by federal law, the local county or city Job Training
33 Partnership Act administrative entity, the local county GAIN office
34 or social services agency, or the local government administering
35 the manufacturing enhancement area, a certification that provides
36 that a qualified disadvantaged individual meets the eligibility
37 requirements specified in paragraph (5) of subdivision (b). The
38 Employment Development Department may provide preliminary
39 screening and referral to a certifying agency. The Department of
40 Housing and Community Development shall develop regulations

governing the issuance of certificates pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(k) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (g), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (d) of Section 17039 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(l) This section shall be repealed as of December 1, 2011.

SEC. 7. Section 17053.70 of the Revenue and Taxation Code is amended to read:

17053.70. (a) There shall be allowed as a credit against the “net tax” (as defined in Section 17039) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the taxpayer in connection with the taxpayer’s purchase of qualified property.

(b) For purposes of this section:

(1) “Taxpayer” means a person or entity engaged in a trade or business within an enterprise zone.

(2) “Qualified property” means:

(A) Any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data processing and communications equipment, including, but not limited, to computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and postproduction, including, but not limited to,

1 cameras, audio recorders, and digital image and sound processing
2 equipment.

3 (B) The total cost of qualified property purchased and placed
4 in service in any taxable year that may be taken into account by
5 any taxpayer for purposes of claiming this credit shall not exceed
6 one million dollars (\$1,000,000).

7 (C) The qualified property is used by the taxpayer exclusively
8 in an enterprise zone.

9 (D) The qualified property is purchased and placed in service
10 before the date the enterprise zone designation expires, is no longer
11 binding, or becomes inoperative.

12 (3) “Enterprise zone” means the area designated as an enterprise
13 zone pursuant to Chapter 12.8 (commencing with Section 7070)
14 of Division 7 of Title 1 of the Government Code.

15 (c) If the taxpayer has purchased property upon which a use tax
16 has been paid or incurred, the credit provided by this section shall
17 be allowed only if qualified property of a comparable quality and
18 price is not timely available for purchase in this state.

19 (d) In the case where the credit otherwise allowed under this
20 section exceeds the “net tax” for the taxable year, that portion of
21 the credit that exceeds the “net tax” may be carried over and added
22 to the credit, if any, in succeeding taxable years, until the credit is
23 exhausted. The credit shall be applied first to the earliest taxable
24 years possible.

25 (e) Any taxpayer who elects to be subject to this section shall
26 not be entitled to increase the basis of the qualified property as
27 otherwise required by Section 164(a) of the Internal Revenue Code
28 with respect to sales or use tax paid or incurred in connection with
29 the taxpayer’s purchase of qualified property.

30 (f) (1) The amount of the credit otherwise allowed under this
31 section and Section 17053.74, including any credit carryover from
32 prior years, that may reduce the “net tax” for the taxable year shall
33 not exceed the amount of tax that would be imposed on the
34 taxpayer’s business income attributable to the enterprise zone
35 determined as if that attributable income represented all of the
36 income of the taxpayer subject to tax under this part.

37 (2) Attributable income shall be that portion of the taxpayer’s
38 California source business income that is apportioned to the
39 enterprise zone. For that purpose, the taxpayer’s business income
40 attributable to sources in this state first shall be determined in

1 accordance with Chapter 17 (commencing with Section 25101) of
2 Part 11. That business income shall be further apportioned to the
3 enterprise zone in accordance with Article 2 (commencing with
4 Section 25120) of Chapter 17 of Part 11, modified for purposes
5 of this section in accordance with paragraph (3).

6 (3) Business income shall be apportioned to the enterprise zone
7 by multiplying the total California business income of the taxpayer
8 by a fraction, the numerator of which is the property factor plus
9 the payroll factor, and the denominator of which is two. For
10 purposes of this paragraph:

11 (A) The property factor is a fraction, the numerator of which is
12 the average value of the taxpayer's real and tangible personal
13 property owned or rented and used in the enterprise zone during
14 the taxable year, and the denominator of which is the average value
15 of all the taxpayer's real and tangible personal property owned or
16 rented and used in this state during the taxable year.

17 (B) The payroll factor is a fraction, the numerator of which is
18 the total amount paid by the taxpayer in the enterprise zone during
19 the taxable year for compensation, and the denominator of which
20 is the total compensation paid by the taxpayer in this state during
21 the taxable year.

22 (4) The portion of any credit remaining, if any, after application
23 of this subdivision, shall be carried over to succeeding taxable
24 years, as if it were an amount exceeding the "net tax" for the
25 taxable year, as provided in subdivision (d).

26 (g) The amendments made to this section by the act adding this
27 subdivision shall apply to taxable years beginning on or after
28 January 1, 1998.

29 (h) (1) *This section shall cease to be operative for taxable years*
30 *beginning on or after January 1, 2011.*

31 (2) *In the case of any portion of a credit available for carryover*
32 *to a taxable year beginning on or after January 1, 2011, under*
33 *subdivision (d), as that subdivision read prior to the amendments*
34 *made by the act adding this subdivision, neither that subdivision*
35 *nor subdivision (d) of Section 17039 shall apply, and those unused*
36 *credit amounts shall not be carried over to any taxable year*
37 *beginning on or after January 1, 2011.*

38 (i) *This section shall be repealed as of December 1, 2011.*

39 SEC. 8. *Section 17053.74 of the Revenue and Taxation Code*
40 *is amended to read:*

1 17053.74. (a) There shall be allowed a credit against the “net
2 tax” (as defined in Section 17039) to a taxpayer who employs a
3 qualified employee in an enterprise zone during the taxable year.
4 The credit shall be equal to the sum of each of the following:

5 (1) Fifty percent of qualified wages in the first year of
6 employment.

7 (2) Forty percent of qualified wages in the second year of
8 employment.

9 (3) Thirty percent of qualified wages in the third year of
10 employment.

11 (4) Twenty percent of qualified wages in the fourth year of
12 employment.

13 (5) Ten percent of qualified wages in the fifth year of
14 employment.

15 (b) For purposes of this section:

16 (1) “Qualified wages” means:

17 (A) (i) Except as provided in clause (ii), that portion of wages
18 paid or incurred by the taxpayer during the taxable year to qualified
19 employees that does not exceed 150 percent of the minimum wage.

20 (ii) For up to 1,350 qualified employees who are employed by
21 the taxpayer in the Long Beach Enterprise Zone in aircraft
22 manufacturing activities described in Codes 3721 to 3728,
23 inclusive, and Code 3812 of the Standard Industrial Classification
24 (SIC) Manual published by the United States Office of
25 Management and Budget, 1987 edition, “qualified wages” means
26 that portion of hourly wages that does not exceed 202 percent of
27 the minimum wage.

28 (B) Wages received during the 60-month period beginning with
29 the first day the employee commences employment with the
30 taxpayer. Reemployment in connection with any increase, including
31 a regularly occurring seasonal increase, in the trade or business
32 operations of the taxpayer does not constitute commencement of
33 employment for purposes of this section.

34 (C) Qualified wages do not include any wages paid or incurred
35 by the taxpayer on or after the zone expiration date. However,
36 wages paid or incurred with respect to qualified employees who
37 are employed by the taxpayer within the enterprise zone within
38 the 60-month period prior to the zone expiration date shall continue
39 to qualify for the credit under this section after the zone expiration
40 date, in accordance with all provisions of this section applied as

1 if the enterprise zone designation were still in existence and
2 binding.

3 (2) “Minimum wage” means the wage established by the
4 Industrial Welfare Commission as provided for in Chapter 1
5 (commencing with Section 1171) of Part 4 of Division 2 of the
6 Labor Code.

7 (3) “Zone expiration date” means the date the enterprise zone
8 designation expires, is no longer binding, or becomes inoperative.

9 (4) (A) “Qualified employee” means an individual who meets
10 all of the following requirements:

11 (i) At least 90 percent of whose services for the taxpayer during
12 the taxable year are directly related to the conduct of the taxpayer’s
13 trade or business located in an enterprise zone.

14 (ii) Performs at least 50 percent of his or her services for the
15 taxpayer during the taxable year in an enterprise zone.

16 (iii) Is hired by the taxpayer after the date of original designation
17 of the area in which services were performed as an enterprise zone.

18 (iv) Is any of the following:

19 (I) Immediately preceding the qualified employee’s
20 commencement of employment with the taxpayer, was a person
21 eligible for services under the federal Job Training Partnership
22 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
23 or is eligible to receive, subsidized employment, training, or
24 services funded by the federal Job Training Partnership Act, or its
25 successor.

26 (II) Immediately preceding the qualified employee’s
27 commencement of employment with the taxpayer, was a person
28 eligible to be a voluntary or mandatory registrant under the Greater
29 Avenues for Independence Act of 1985 (GAIN) provided for
30 pursuant to Article 3.2 (commencing with Section 11320) of
31 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
32 Code, or its successor.

33 (III) Immediately preceding the qualified employee’s
34 commencement of employment with the taxpayer, was an
35 economically disadvantaged individual 14 years of age or older.

36 (IV) Immediately preceding the qualified employee’s
37 commencement of employment with the taxpayer, was a dislocated
38 worker who meets any of the following:

39 (aa) Has been terminated or laid off or who has received a notice
40 of termination or layoff from employment, is eligible for or has

1 exhausted entitlement to unemployment insurance benefits, and
2 is unlikely to return to his or her previous industry or occupation.

3 (bb) Has been terminated or has received a notice of termination
4 of employment as a result of any permanent closure or any
5 substantial layoff at a plant, facility, or enterprise, including an
6 individual who has not received written notification but whose
7 employer has made a public announcement of the closure or layoff.

8 (cc) Is long-term unemployed and has limited opportunities for
9 employment or reemployment in the same or a similar occupation
10 in the area in which the individual resides, including an individual
11 55 years of age or older who may have substantial barriers to
12 employment by reason of age.

13 (dd) Was self-employed (including farmers and ranchers) and
14 is unemployed as a result of general economic conditions in the
15 community in which he or she resides or because of natural
16 disasters.

17 (ee) Was a civilian employee of the Department of Defense
18 employed at a military installation being closed or realigned under
19 the Defense Base Closure and Realignment Act of 1990.

20 (ff) Was an active member of the armed forces or National
21 Guard as of September 30, 1990, and was either involuntarily
22 separated or separated pursuant to a special benefits program.

23 (gg) Is a seasonal or migrant worker who experiences chronic
24 seasonal unemployment and underemployment in the agriculture
25 industry, aggravated by continual advancements in technology and
26 mechanization.

27 (hh) Has been terminated or laid off, or has received a notice
28 of termination or layoff, as a consequence of compliance with the
29 Clean Air Act.

30 (V) Immediately preceding the qualified employee's
31 commencement of employment with the taxpayer, was a disabled
32 individual who is eligible for or enrolled in, or has completed a
33 state rehabilitation plan or is a service-connected disabled veteran,
34 veteran of the Vietnam era, or veteran who is recently separated
35 from military service.

36 (VI) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was an
38 ex-offender. An individual shall be treated as convicted if he or
39 she was placed on probation by a state court without a finding of
40 guilt.

1 (VII) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a person
3 eligible for or a recipient of any of the following:

4 (aa) Federal Supplemental Security Income benefits.

5 (bb) Aid to Families with Dependent Children.

6 (cc) Food stamps.

7 (dd) State and local general assistance.

8 (VIII) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was a member
10 of a federally recognized Indian tribe, band, or other group of
11 Native American descent.

12 (IX) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was a resident
14 of a targeted employment area, as defined in Section 7072 of the
15 Government Code.

16 (X) An employee who qualified the taxpayer for the enterprise
17 zone hiring credit under former Section 17053.8 or the program
18 area hiring credit under former Section 17053.11.

19 (XI) Immediately preceding the qualified employee's
20 commencement of employment with the taxpayer, was a member
21 of a targeted group, as defined in Section 51(d) of the Internal
22 Revenue Code, or its successor.

23 (B) Priority for employment shall be provided to an individual
24 who is enrolled in a qualified program under the federal Job
25 Training Partnership Act or the Greater Avenues for Independence
26 Act of 1985 or who is eligible as a member of a targeted group
27 under the Work Opportunity Tax Credit (Section 51 of the Internal
28 Revenue Code), or its successor.

29 (5) "Taxpayer" means a person or entity engaged in a trade or
30 business within an enterprise zone designated pursuant to Chapter
31 12.8 (commencing with Section 7070) of the Government Code.

32 (6) "Seasonal employment" means employment by a taxpayer
33 that has regular and predictable substantial reductions in trade or
34 business operations.

35 (c) The taxpayer shall do both of the following:

36 (1) Obtain from the Employment Development Department, as
37 permitted by federal law, the local county or city Job Training
38 Partnership Act administrative entity, the local county GAIN office
39 or social services agency, or the local government administering
40 the enterprise zone, a certification which provides that a qualified

1 employee meets the eligibility requirements specified in clause
2 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
3 Employment Development Department may provide preliminary
4 screening and referral to a certifying agency. The Employment
5 Development Department shall develop a form for this purpose.
6 The Department of Housing and Community Development shall
7 develop regulations governing the issuance of certificates by local
8 governments pursuant to subdivision (a) of Section 7086 of the
9 Government Code.

10 (2) Retain a copy of the certification and provide it upon request
11 to the Franchise Tax Board.

12 (d) (1) For purposes of this section:

13 (A) All employees of trades or businesses, which are not
14 incorporated, that are under common control shall be treated as
15 employed by a single taxpayer.

16 (B) The credit, if any, allowable by this section with respect to
17 each trade or business shall be determined by reference to its
18 proportionate share of the expense of the qualified wages giving
19 rise to the credit, and shall be allocated in that manner.

20 (C) Principles that apply in the case of controlled groups of
21 corporations, as specified in subdivision (d) of Section 23622.7,
22 shall apply with respect to determining employment.

23 (2) If an employer acquires the major portion of a trade or
24 business of another employer (hereinafter in this paragraph referred
25 to as the "predecessor") or the major portion of a separate unit of
26 a trade or business of a predecessor, then, for purposes of applying
27 this section (other than subdivision (e)) for any calendar year
28 ending after that acquisition, the employment relationship between
29 a qualified employee and an employer shall not be treated as
30 terminated if the employee continues to be employed in that trade
31 or business.

32 (e) (1) (A) If the employment, other than seasonal employment,
33 of any qualified employee, with respect to whom qualified wages
34 are taken into account under subdivision (a) is terminated by the
35 taxpayer at any time during the first 270 days of that employment
36 (whether or not consecutive) or before the close of the 270th
37 calendar day after the day in which that employee completes 90
38 days of employment with the taxpayer, the tax imposed by this
39 part for the taxable year in which that employment is terminated
40 shall be increased by an amount equal to the credit allowed under

1 subdivision (a) for that taxable year and all prior taxable years
2 attributable to qualified wages paid or incurred with respect to that
3 employee.

4 (B) If the seasonal employment of any qualified employee, with
5 respect to whom qualified wages are taken into account under
6 subdivision (a) is not continued by the taxpayer for a period of
7 270 days of employment during the 60-month period beginning
8 with the day the qualified employee commences seasonal
9 employment with the taxpayer, the tax imposed by this part, for
10 the taxable year that includes the 60th month following the month
11 in which the qualified employee commences seasonal employment
12 with the taxpayer, shall be increased by an amount equal to the
13 credit allowed under subdivision (a) for that taxable year and all
14 prior taxable years attributable to qualified wages paid or incurred
15 with respect to that qualified employee.

16 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
17 any of the following:

18 (i) A termination of employment of a qualified employee who
19 voluntarily leaves the employment of the taxpayer.

20 (ii) A termination of employment of a qualified employee who,
21 before the close of the period referred to in paragraph (1), becomes
22 disabled and unable to perform the services of that employment,
23 unless that disability is removed before the close of that period
24 and the taxpayer fails to offer reemployment to that employee.

25 (iii) A termination of employment of a qualified employee, if
26 it is determined that the termination was due to the misconduct (as
27 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
28 the California Code of Regulations) of that employee.

29 (iv) A termination of employment of a qualified employee due
30 to a substantial reduction in the trade or business operations of the
31 taxpayer.

32 (v) A termination of employment of a qualified employee, if
33 that employee is replaced by other qualified employees so as to
34 create a net increase in both the number of employees and the
35 hours of employment.

36 (B) Subparagraph (B) of paragraph (1) shall not apply to any
37 of the following:

38 (i) A failure to continue the seasonal employment of a qualified
39 employee who voluntarily fails to return to the seasonal
40 employment of the taxpayer.

1 (ii) A failure to continue the seasonal employment of a qualified
2 employee who, before the close of the period referred to in
3 subparagraph (B) of paragraph (1), becomes disabled and unable
4 to perform the services of that seasonal employment, unless that
5 disability is removed before the close of that period and the
6 taxpayer fails to offer seasonal employment to that qualified
7 employee.

8 (iii) A failure to continue the seasonal employment of a qualified
9 employee, if it is determined that the failure to continue the
10 seasonal employment was due to the misconduct (as defined in
11 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
12 Code of Regulations) of that qualified employee.

13 (iv) A failure to continue seasonal employment of a qualified
14 employee due to a substantial reduction in the regular seasonal
15 trade or business operations of the taxpayer.

16 (v) A failure to continue the seasonal employment of a qualified
17 employee, if that qualified employee is replaced by other qualified
18 employees so as to create a net increase in both the number of
19 seasonal employees and the hours of seasonal employment.

20 (C) For purposes of paragraph (1), the employment relationship
21 between the taxpayer and a qualified employee shall not be treated
22 as terminated by reason of a mere change in the form of conducting
23 the trade or business of the taxpayer, if the qualified employee
24 continues to be employed in that trade or business and the taxpayer
25 retains a substantial interest in that trade or business.

26 (3) Any increase in tax under paragraph (1) shall not be treated
27 as tax imposed by this part for purposes of determining the amount
28 of any credit allowable under this part.

29 (f) In the case of an estate or trust, both of the following apply:

30 (1) The qualified wages for any taxable year shall be apportioned
31 between the estate or trust and the beneficiaries on the basis of the
32 income of the estate or trust allocable to each.

33 (2) Any beneficiary to whom any qualified wages have been
34 apportioned under paragraph (1) shall be treated, for purposes of
35 this part, as the employer with respect to those wages.

36 (g) For purposes of this section, "enterprise zone" means an
37 area designated as an enterprise zone pursuant to Chapter 12.8
38 (commencing with Section 7070) of Division 7 of Title 1 of the
39 Government Code.

1 (h) The credit allowable under this section shall be reduced by
2 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
3 claimed for the same employee. The credit shall also be reduced
4 by the federal credit allowed under Section 51 of the Internal
5 Revenue Code.

6 In addition, any deduction otherwise allowed under this part for
7 the wages or salaries paid or incurred by the taxpayer upon which
8 the credit is based shall be reduced by the amount of the credit,
9 prior to any reduction required by subdivision (i) or (j).

10 (i) In the case where the credit otherwise allowed under this
11 section exceeds the “net tax” for the taxable year, that portion of
12 the credit that exceeds the “net tax” may be carried over and added
13 to the credit, if any, in succeeding taxable years, until the credit is
14 exhausted. The credit shall be applied first to the earliest taxable
15 years possible.

16 (j) (1) The amount of the credit otherwise allowed under this
17 section and Section 17053.70, including any credit carryover from
18 prior years, that may reduce the “net tax” for the taxable year shall
19 not exceed the amount of tax which would be imposed on the
20 taxpayer’s business income attributable to the enterprise zone
21 determined as if that attributable income represented all of the
22 income of the taxpayer subject to tax under this part.

23 (2) Attributable income shall be that portion of the taxpayer’s
24 California source business income that is apportioned to the
25 enterprise zone. For that purpose, the taxpayer’s business income
26 attributable to sources in this state first shall be determined in
27 accordance with Chapter 17 (commencing with Section 25101) of
28 Part 11. That business income shall be further apportioned to the
29 enterprise zone in accordance with Article 2 (commencing with
30 Section 25120) of Chapter 17 of Part 11, modified for purposes
31 of this section in accordance with paragraph (3).

32 (3) Business income shall be apportioned to the enterprise zone
33 by multiplying the total California business income of the taxpayer
34 by a fraction, the numerator of which is the property factor plus
35 the payroll factor, and the denominator of which is two. For
36 purposes of this paragraph:

37 (A) The property factor is a fraction, the numerator of which is
38 the average value of the taxpayer’s real and tangible personal
39 property owned or rented and used in the enterprise zone during
40 the taxable year, and the denominator of which is the average value

1 of all the taxpayer's real and tangible personal property owned or
2 rented and used in this state during the taxable year.

3 (B) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the enterprise zone during
5 the taxable year for compensation, and the denominator of which
6 is the total compensation paid by the taxpayer in this state during
7 the taxable year.

8 (4) The portion of any credit remaining, if any, after application
9 of this subdivision, shall be carried over to succeeding taxable
10 years, as if it were an amount exceeding the "net tax" for the
11 taxable year, as provided in subdivision (i).

12 (k) The changes made to this section by the act adding this
13 subdivision shall apply to taxable years beginning on or after
14 January 1, 1997.

15 (l) (1) *This section shall cease to be operative for taxable years*
16 *beginning on or after January 1, 2011.*

17 (2) *In the case of any portion of a credit available for carryover*
18 *to a taxable year beginning on or after January 1, 2011, under*
19 *subdivision (i), as that subdivision read prior to the amendments*
20 *made by the act adding this subdivision, neither that subdivision*
21 *nor subdivision (d) of Section 17039 shall apply, and those unused*
22 *credit amounts shall not be carried over to any taxable year*
23 *beginning on or after January 1, 2011.*

24 (m) *This section shall be repealed as of December 1, 2011.*

25 SEC. 9. *Section 17053.75 of the Revenue and Taxation Code*
26 *is amended to read:*

27 17053.75. (a) There shall be allowed as a credit against the
28 "net tax" (as defined by Section 17039) for the taxable year an
29 amount equal to five percent of the qualified wages received by
30 the taxpayer during the taxable year.

31 (b) For purposes of this section:

32 (1) "Qualified employee" means a taxpayer who meets both of
33 the following:

34 (A) Is described in clauses (i) and (ii) of subparagraph (A) of
35 paragraph (4) of subdivision (b) of Section 17053.74.

36 (B) Is not an employee of the federal government or of this state
37 or of any political subdivision of this state.

38 (2) (A) "Qualified wages" means "wages," as defined in
39 subsection (b) of Section 3306 of the Internal Revenue Code,
40 attributable to services performed for an employer with respect to

1 whom the taxpayer is a qualified employee in an amount that does
2 not exceed one and one-half times the dollar limitation specified
3 in that subsection.

4 (B) “Qualified wages” does not include any compensation
5 received from the federal government or this state or any political
6 subdivision of this state.

7 (C) “Qualified wages” does not include any wages received on
8 or after the date the enterprise zone designation expires, is no
9 longer binding, or becomes inoperative.

10 (3) “Enterprise zone” means any area designated as an enterprise
11 zone pursuant to Chapter 12.8 (commencing with Section 7070)
12 of Division 7 of Title 1 of the Government Code.

13 (c) For each dollar of income received by the taxpayer in excess
14 of qualified wages, as defined in this section, the credit shall be
15 reduced by nine cents (\$0.09).

16 (d) The amount of the credit allowed by this section in any
17 taxable year shall not exceed the amount of tax that would be
18 imposed on the taxpayer’s income attributable to employment
19 within the enterprise zone as if that income represented all of the
20 income of the taxpayer subject to tax under this part.

21 (e) (1) *This section shall cease to be operative for taxable years*
22 *beginning on or after January 1, 2011.*

23 (2) *This section shall be repealed as of December 1, 2011.*

24 SEC. 10. *Section 17235 of the Revenue and Taxation Code is*
25 *amended to read:*

26 17235. (a) There shall be allowed as a deduction the amount
27 of net interest received by the taxpayer in payment on indebtedness
28 of a person or entity engaged in the conduct of a trade or business
29 located in an enterprise zone.

30 (b) No deduction shall be allowed under this section unless at
31 the time the indebtedness is incurred each of the following
32 requirements are met:

33 (1) The trade or business is located solely within an enterprise
34 zone.

35 (2) The indebtedness is incurred solely in connection with
36 activity within the enterprise zone.

37 (3) The taxpayer has no equity or other ownership interest in
38 the debtor.

1 (c) “Enterprise zone” means an area designated as an enterprise
2 zone pursuant to Chapter 12.8 (commencing with Section 7070)
3 of Division 7 of Title 1 of the Government Code.

4 (d) (1) *This section shall cease to be operative for taxable years*
5 *beginning on or after January 1, 2011.*

6 (2) *This section shall be repealed as of December 1, 2011.*

7 SEC. 11. *Section 17267.2 of the Revenue and Taxation Code*
8 *is amended to read:*

9 17267.2. (a) A taxpayer may elect to treat 40 percent of the
10 cost of any Section 17267.2 property as an expense which is not
11 chargeable to a capital account. Any cost so treated shall be allowed
12 as a deduction for the taxable year in which the taxpayer places
13 the Section 17267.2 property in service.

14 (b) In the case of a husband and wife filing separate returns for
15 a taxable year, the applicable amount under subdivision (a) shall
16 be equal to 50 percent of the percentage specified in subdivision
17 (a).

18 (c) (1) An election under this section for any taxable year shall
19 do both of the following:

20 (A) Specify the items of Section 17267.2 property to which the
21 election applies and the percentage of the cost of each of those
22 items that are to be taken into account under subdivision (a).

23 (B) Be made on the taxpayer’s original return of the tax imposed
24 by this part for the taxable year.

25 (2) Any election made under this section, and any specification
26 contained in that election, may not be revoked except with the
27 consent of the Franchise Tax Board.

28 (d) (1) For purposes of this section, “Section 17267.2 property”
29 means any recovery property that is:

30 (A) Section 1245 property (as defined in Section 1245(a) (3) of
31 the Internal Revenue Code).

32 (B) Purchased and placed in service by the taxpayer for
33 exclusive use in a trade or business conducted within an enterprise
34 zone designated pursuant to Chapter 12.8 (commencing with
35 Section 7070) of Division 7 of Title 1 of the Government Code.

36 (C) Purchased and placed in service before the date the
37 enterprise zone designation expires, is no longer binding, or
38 becomes inoperative.

39 (2) For purposes of paragraph (1), “purchase” means any
40 acquisition of property, but only if both of the following apply:

1 (A) The property is not acquired from a person whose
2 relationship to the person acquiring it would result in the
3 disallowance of losses under Section 267 or Section 707 (b) of the
4 Internal Revenue Code. However, in applying Section 267(b) and
5 267(c) for purposes of this section, Section 267(c) (4) shall be
6 treated as providing that the family of an individual shall include
7 only the individual's spouse, ancestors, and lineal descendants.

8 (B) The basis of the property in the hands of the person acquiring
9 it is not determined in whole or in part by reference to the adjusted
10 basis of that property in the hands of the person from whom it is
11 acquired.

12 (3) For purposes of this section, the cost of property does not
13 include that portion of the basis of the property that is determined
14 by reference to the basis of other property held at any time by the
15 person acquiring the property.

16 (4) This section shall not apply to estates and trusts.

17 (5) This section shall not apply to any property for which the
18 taxpayer may not make an election for the taxable year under
19 Section 179 of the Internal Revenue Code because of the
20 application of the provisions of Section 179(d) of the Internal
21 Revenue Code.

22 (6) In the case of a partnership, the percentage limitation
23 specified in subdivision (a) shall apply at the partnership level and
24 at the partner level.

25 (e) For purposes of this section, "taxpayer" means a person or
26 entity who conducts a trade or business within an enterprise zone
27 designated pursuant to Chapter 12.8 (commencing with Section
28 7070) of Division 7 of Title 1 of the Government Code.

29 (f) Any taxpayer who elects to be subject to this section shall
30 not be entitled to claim for the same property, the deduction under
31 Section 179 of the Internal Revenue Code, relating to an election
32 to expense certain depreciable business assets. However, the
33 taxpayer may claim depreciation by any method permitted by
34 Section 168 of the Internal Revenue Code, commencing with the
35 taxable year following the taxable year in which the Section
36 17267.2 property is placed in service.

37 (g) The aggregate cost of all Section 17267.2 property that may
38 be taken into account under subdivision (a) for any taxable year
39 shall not exceed the following applicable amount for the taxable

year of the designation of the relevant enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(h) Any amounts deducted under subdivision (a) with respect to property subject to this section that ceases to be used in the taxpayer's trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(i) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 12. *Section 17267.6 of the Revenue and Taxation Code is amended to read:*

17267.6. (a) For each taxable year beginning on or after January 1, 1998, a qualified taxpayer may elect to treat 40 percent of the cost of any Section 17267.6 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified taxpayer places the Section 17267.6 property in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 17267.6 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the qualified taxpayer's original return of the tax imposed by this part for the taxable year.

1 (2) Any election made under this section, and any specification
2 contained in that election, may not be revoked except with the
3 consent of the Franchise Tax Board.

4 (d) (1) For purposes of this section, “Section 17267.6 property”
5 means any recovery property that is:

6 (A) Section 1245 property (as defined in Section 1245(a)(3) of
7 the Internal Revenue Code).

8 (B) Purchased and placed in service by the qualified taxpayer
9 for exclusive use in a trade or business conducted within a targeted
10 tax area designated pursuant to Chapter 12.93 (commencing with
11 Section 7097) of Division 7 of Title 1 of the Government Code.

12 (C) Purchased and placed in service before the date the targeted
13 tax area designation expires, is revoked, is no longer binding, or
14 becomes inoperative.

15 (2) For purposes of paragraph (1), “purchase” means any
16 acquisition of property, but only if both of the following apply:

17 (A) The property is not acquired from a person whose
18 relationship to the person acquiring it would result in the
19 disallowance of losses under Section 267 or Section 707(b) of the
20 Internal Revenue Code. However, in applying Sections 267(b) and
21 267(c) for purposes of this section, Section 267(c)(4) shall be
22 treated as providing that the family of an individual shall include
23 only the individual’s spouse, ancestors, and lineal descendants.

24 (B) The basis of the property in the hands of the person acquiring
25 it is not determined in whole or in part by reference to the adjusted
26 basis of that property in the hands of the person from whom it is
27 acquired.

28 (3) For purposes of this section, the cost of property does not
29 include that portion of the basis of the property that is determined
30 by reference to the basis of other property held at any time by the
31 person acquiring the property.

32 (4) This section shall not apply to estates and trusts.

33 (5) This section shall not apply to any property for which the
34 qualified taxpayer may not make an election for the taxable year
35 under Section 179 of the Internal Revenue Code because of the
36 application of the provisions of Section 179(d) of the Internal
37 Revenue Code.

38 (6) In the case of a partnership, the percentage limitation
39 specified in subdivision (a) shall apply at the partnership level and
40 at the partner level.

(e) (1) For purposes of this section, “qualified taxpayer” means a person or entity that meets both of the following:

(A) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(B) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United State Office of Management and Budget, 1987 edition.

(2) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any deduction under this section or Section 24356.6 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part of Part 11 (commencing with Section 23001). For purposes of this subparagraph, the term “pass-through entity” means any partnership or S corporation.

(f) Any qualified taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets. However, the qualified taxpayer may claim depreciation by any method permitted by Section 168 of the Internal Revenue Code, commencing with the taxable year following the taxable year in which the Section 17267.6 property is placed in service.

(g) The aggregate cost of all Section 17267.6 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of the relevant targeted tax area and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(h) Any amounts deducted under subdivision (a) with respect to Section 17267.6 property that ceases to be used in the qualified taxpayer's trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(i) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 13. *Section 17268 of the Revenue and Taxation Code is amended to read:*

17268. (a) For each taxable year beginning on or after January 1, 1995, a taxpayer may elect to treat 40 percent of the cost of any Section 17268 property as an expense that is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 17268 property in service.

(b) In the case of a husband or wife filing separate returns for a taxable year in which a spouse is entitled to the deduction under subdivision (a), the applicable amount shall be equal to 50 percent of the amount otherwise determined under subdivision (a).

(c) (1) An election under this section for any taxable year shall meet both of the following requirements:

(A) Specify the items of Section 17268 property to which the election applies and the portion of the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17268 property" means any recovery property that is each of the following:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(C) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

1 (2) For purposes of paragraph (1), “purchase” means any
2 acquisition of property, but only if both of the following apply:

3 (A) The property is not acquired from a person whose
4 relationship to the person acquiring it would result in the
5 disallowance of losses under Section 267 or 707(b) of the Internal
6 Revenue Code (but, in applying Section 267(b) and Section 267(c)
7 of the Internal Revenue Code for purposes of this section, Section
8 267(c)(4) of the Internal Revenue Code shall be treated as
9 providing that the family of an individual shall include only his or
10 her spouse, ancestors, and lineal descendants).

11 (B) The basis of the property in the hands of the person acquiring
12 it is not determined by either of the following:

13 (i) In whole or in part by reference to the adjusted basis of the
14 property in the hands of the person from whom acquired.

15 (ii) Under Section 1014 of the Internal Revenue Code, relating
16 to basis of property acquired from a decedent.

17 (3) For purposes of this section, the cost of property does not
18 include that portion of the basis of the property that is determined
19 by reference to the basis of other property held at any time by the
20 person acquiring the property.

21 (4) This section shall not apply to estates and trusts.

22 (5) This section shall not apply to any property for which the
23 taxpayer may not make an election for the taxable year under
24 Section 179 of the Internal Revenue Code because of the provisions
25 of Section 179(d) of the Internal Revenue Code.

26 (6) In the case of a partnership, the dollar limitation in
27 subdivision (f) shall apply at the partnership level and at the partner
28 level.

29 (7) This section shall not apply to any property described in
30 Section 168(f) of the Internal Revenue Code, relating to property
31 to which Section 168 of the Internal Revenue Code does not apply.

32 (e) For purposes of this section:

33 (1) “LAMBRA” means a local agency military base recovery
34 area designated in accordance with the provisions of Section 7114
35 of the Government Code.

36 (2) “Taxpayer” means a taxpayer that conducts a trade or
37 business within a LAMBRA and, for the first two taxable years,
38 has a net increase in jobs (defined as 2,000 paid hours per employee
39 per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(f) The aggregate cost of all Section 17268 property that may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000

	The applicable
	amount is:
Each taxable year thereafter.....	50,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (e), then the amount of the deduction previously claimed shall be added to the taxpayer's taxable income for the taxpayer's second taxable year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

(j) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 14. *Section 17276.1 of the Revenue and Taxation Code is amended to read:*

17276.1. (a) A qualified taxpayer, as defined in Section ~~17276.2, 17276.4, 17276.5, 17276.6, or 17276.7~~, may elect to take the deduction provided by Section 172 of the Internal Revenue Code, relating to the net operating loss deduction, as modified by Section ~~17276~~ 17276.20, with the following exceptions:

(1) Subdivision (a) of Section ~~17276~~ 17276.20, relating to years in which allowable losses are sustained, shall not be applicable.

(2) Subdivision (b) of Section ~~17276~~ 17276.20, relating to the 50-percent reduction of losses, shall not be applicable.

(b) The election to compute the net operating loss under this section shall be made in a statement attached to the original return, timely filed for the year in which the net operating loss is incurred and shall be irrevocable. In addition to the exceptions specified in subdivision (a), the provisions of Section ~~17276.2, 17276.4, 17276.5, 17276.6, or 17276.7~~, as appropriate, shall be applicable.

~~(e) Any carryover of a net operating loss sustained by a qualified taxpayer, as defined in subdivision (a) or (b) of Section 17276.2 as that section read immediately prior to January 1, 1997, shall, if previously elected, continue to be a deduction, as provided in subdivision (a), applied as if the provisions of subdivision (a) or (b) of Section 17276.2, as that section read prior to January 1, 1997, still applied.~~

(c) The changes to this section made by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2011.

SEC. 15. Section 17276.2 of the Revenue and Taxation Code is amended to read:

17276.2. (a) The term “qualified taxpayer” as used in Section 17276.1 includes a person or entity engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The enterprise zone” shall be substituted for “this state.”

1 (B) A net operating loss carryover shall be a deduction only
2 with respect to the taxpayer's business income attributable to the
3 enterprise zone as defined in Chapter 12.8 (commencing with
4 Section 7070) of Division 7 of Title 1 of the Government Code.

5 (C) Attributable income is that portion of the taxpayer's
6 California source business income that is apportioned to the
7 enterprise zone. For that purpose, the taxpayer's business income
8 attributable to sources in this state first shall be determined in
9 accordance with Chapter 17 (commencing with Section 25101) of
10 Part 11. That business income shall be further apportioned to the
11 enterprise zone in accordance with Article 2 (commencing with
12 Section 25120) of Chapter 17 of Part 11, modified for purposes
13 of this subdivision as follows:

14 (i) Business income shall be apportioned to the enterprise zone
15 by multiplying the total California business income of the taxpayer
16 by a fraction, the numerator of which is the property factor plus
17 the payroll factor, and the denominator of which is two. For
18 purposes of this clause:

19 (I) The property factor is a fraction, the numerator of which is
20 the average value of the taxpayer's real and tangible personal
21 property owned or rented and used in the enterprise zone during
22 the taxable year, and the denominator of which is the average value
23 of all the taxpayer's real and tangible personal property owned or
24 rented and used in this state during the taxable year.

25 (II) The payroll factor is a fraction, the numerator of which is
26 the total amount paid by the taxpayer in the enterprise zone during
27 the taxable year for compensation, and the denominator of which
28 is the total compensation paid by the taxpayer in this state during
29 the taxable year.

30 (ii) If a loss carryover is allowable pursuant to this section for
31 any taxable year after the enterprise zone designation has expired,
32 the enterprise zone shall be deemed to remain in existence for
33 purposes of computing the limitation set forth in subparagraph (B)
34 and allowing a net operating loss deduction.

35 (D) "Enterprise zone expiration date" means the date the
36 enterprise zone designation expires, is no longer binding, or
37 becomes inoperative.

38 (3) The changes made to this subdivision by the act adding this
39 paragraph shall apply to taxable years beginning on or after January
40 1, 1998.

(b) A taxpayer who qualifies as a “qualified taxpayer” under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 17276.4, 17276.5, or 17276.6 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.4, 17276.5, or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

(e) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 16. *Section 17276.4 of the Revenue and Taxation Code is amended to read:*

17276.4. (a) The term “qualified taxpayer” as used in Section 17276.1 includes a person or entity engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to *the former* Section 7102 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following taxable year that ends before the Los Angeles Revitalization Zone expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer’s business activities within

1 the Los Angeles Revitalization Zone (as defined in *the former*
2 Section 7102 of the Government Code) prior to the Los Angeles
3 Revitalization Zone expiration date. The attributable loss shall be
4 determined in accordance with Chapter 17 (commencing with
5 Section 25101) of Part 11, modified as follows:

6 (A) Loss shall be apportioned to the Los Angeles Revitalization
7 Zone by multiplying total loss from the business by a fraction, the
8 numerator of which is the property factor plus the payroll factor,
9 and the denominator of which is 2.

10 (B) “The Los Angeles Revitalization Zone” shall be substituted
11 for “this state.”

12 (3) A net operating loss carryover shall be a deduction only with
13 respect to the taxpayer’s business income attributable to the Los
14 Angeles Revitalization Zone (as defined in *the former* Section
15 7102 of the Government Code) determined in accordance with
16 subdivision (c).

17 (4) If a loss carryover is allowable pursuant to this section for
18 any taxable year after the Los Angeles Revitalization Zone
19 designation has expired, the Los Angeles Revitalization Zone shall
20 be deemed to remain in existence for purposes of computing the
21 limitation set forth in paragraph (2) and allowing a net operating
22 loss deduction.

23 (5) Attributable income shall be that portion of the taxpayer’s
24 California source business income which is apportioned to the Los
25 Angeles Revitalization Zone. For that purpose, the taxpayer’s
26 business income attributable to sources in this state first shall be
27 determined in accordance with Chapter 17 (commencing with
28 Section 25101) of Part 11. That business income shall be further
29 apportioned to the Los Angeles Revitalization Zone in accordance
30 with Article 2 (commencing with Section 25120) of Chapter 17
31 of Part 11, modified as follows:

32 (A) Business income shall be apportioned to the Los Angeles
33 Revitalization Zone by multiplying total California business income
34 of the taxpayer by a fraction, the numerator of which is the property
35 factor plus the payroll factor, and the denominator of which is 2.

36 (B) The property factor is a fraction, the numerator of which is
37 the average value of the taxpayer’s real and tangible personal
38 property owned or rented and used in the Los Angeles
39 Revitalization Zone during the taxable year and the denominator
40 of which is the average value of all the taxpayer’s real and tangible

1 personal property owned or rented and used in this state during
2 the taxable year.

3 (C) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the Los Angeles
5 Revitalization Zone during the taxable year for compensation, and
6 the denominator of which is the total compensation paid by the
7 taxpayer in this state during the taxable year.

8 (6) “Los Angeles Revitalization Zone expiration date” means
9 the date the Los Angeles Revitalization Zone designation expires,
10 is repealed, or becomes inoperative pursuant to *the former* Section
11 7102, 7103, or 7104 of the Government Code.

12 (b) This section shall be inoperative on the first day of the
13 taxable year beginning on or after the determination date, and each
14 taxable year thereafter, with respect to the taxpayer’s business
15 activities within a geographic area that is excluded from the map
16 pursuant to *the former* Section 7102 of the Government Code, or
17 an excluded area determined pursuant to *the former* Section 7104
18 of the Government Code. The determination date is the earlier of
19 the first effective date of a determination under ~~subdivision (c) of~~
20 *the former* Section 7102 of the Government Code occurring after
21 December 1, 1994, or the first effective date of an exclusion of an
22 area from the amended Los Angeles Revitalization Zone under
23 *the former* Section 7104 of the Government Code. However, if the
24 taxpayer has any unused loss amount as of the date this section
25 becomes inoperative, that unused loss amount may continue to be
26 carried forward as provided in this section.

27 (c) A taxpayer who qualifies as a “qualified taxpayer” under
28 one or more sections shall, for the taxable year of the net operating
29 loss and any taxable year to which that net operating loss may be
30 carried, designate on the original return filed for each year the
31 section that applies to that taxpayer with respect to that net
32 operating loss. If the taxpayer is eligible to qualify under more
33 than one section, the designation is to be made after taking into
34 account subdivision (d).

35 (d) If a taxpayer is eligible to qualify under this section and
36 either Section 17276.2, 17276.5, or 17276.6 as a “qualified
37 taxpayer,” with respect to a net operating loss in a taxable year,
38 the taxpayer shall designate which section is to apply to the
39 taxpayer.

1 (e) Notwithstanding Section 17276, the amount of the loss
2 determined under this section or Section 17276.2, 17276.5, or
3 17276.6 shall be the only net operating loss allowed to be carried
4 over from that taxable year and the designation under subdivision
5 (c) shall be included in the election under Section 17276.1.

6 (f) This section shall cease to be operative on December 1, 1998.
7 ~~However, any unused net operating loss may continue to be carried~~
8 ~~over to following years as provided in this section.~~

9 (g) (1) *The changes made to this section by the act adding this*
10 *subdivision shall apply to taxable years beginning on or after*
11 *January 1, 2011.*

12 (2) *This section shall be repealed as of December 1, 2011.*

13 SEC. 17. *Section 17276.5 of the Revenue and Taxation Code*
14 *is amended to read:*

15 17276.5. (a) For each taxable year beginning on or after
16 January 1, 1995, the term “qualified taxpayer” as used in Section
17 17276.1 includes a taxpayer engaged in the conduct of a trade or
18 business within a LAMBRA. For purposes of this subdivision, all
19 of the following shall apply:

20 (1) A net operating loss shall not be a net operating loss
21 carryback for any taxable year, and a net operating loss for any
22 taxable year beginning on or after the date the area in which the
23 taxpayer conducts a trade or business is designated a LAMBRA
24 shall be a net operating loss carryover to each following taxable
25 year that ends before the LAMBRA expiration date or to each of
26 the 15 taxable years following the taxable year of loss, if longer.

27 (2) “LAMBRA” means a local agency military base recovery
28 area designated in accordance with Section 7114 of the Government
29 Code.

30 (3) “Taxpayer” means a person or entity that conducts a trade
31 or business within a LAMBRA and, for the first two taxable years,
32 has a net increase in jobs (defined as 2,000 paid hours per employee
33 per year) of one or more employees in the LAMBRA and this state.
34 For purposes of this paragraph:

35 (A) The net increase in the number of jobs shall be determined
36 by subtracting the total number of full-time employees (defined
37 as 2,000 paid hours per employee per year) the taxpayer employed
38 in this state in the taxable year prior to commencing business
39 operations in the LAMBRA from the total number of full-time
40 employees the taxpayer employed in this state during the second

1 taxable year after commencing business operations in the
2 LAMBRA. For taxpayers who commence doing business in this
3 state with their LAMBRA business operation, the number of
4 employees for the taxable year prior to commencing business
5 operations in the LAMBRA shall be zero. The deduction shall be
6 allowed only if the taxpayer has a net increase in jobs in the state,
7 and if one or more full-time employees is employed within the
8 LAMBRA.

9 (B) The total number of employees employed in the LAMBRA
10 shall equal the sum of both of the following:

11 (i) The total number of hours worked in the LAMBRA for the
12 taxpayer by employees (not to exceed 2,000 hours per employee)
13 who are paid an hourly wage divided by 2,000.

14 (ii) The total number of months worked in the LAMBRA for
15 the taxpayer by employees who are salaried employees divided
16 by 12.

17 (C) In the case of a taxpayer who first commences doing
18 business in the LAMBRA during the taxable year, for purposes of
19 clauses (i) and (ii), respectively, of subparagraph (B), the divisors
20 “2,000” and “12” shall be multiplied by a fraction, the numerator
21 of which is the number of months of the taxable year that the
22 taxpayer was doing business in the LAMBRA and the denominator
23 of which is 12.

24 (4) “Net operating loss” means the loss determined under
25 Section 172 of the Internal Revenue Code, as modified by Section
26 17276.1, attributable to the taxpayer’s business activities within a
27 LAMBRA prior to the LAMBRA expiration date. The attributable
28 loss shall be determined in accordance with Chapter 17
29 (commencing with Section 25101) of Part 11, modified for
30 purposes of this section as follows:

31 (A) Loss shall be apportioned to a LAMBRA by multiplying
32 total loss from the business by a fraction, the numerator of which
33 is the property factor plus the payroll factor, and the denominator
34 of which is 2.

35 (B) “The LAMBRA” shall be substituted for “this state.”

36 (5) A net operating loss carryover shall be a deduction only with
37 respect to the taxpayer’s business income attributable to a
38 LAMBRA.

39 (6) Attributable income is that portion of the taxpayer’s
40 California source business income that is apportioned to the

LAMBRA. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

(A) Business income shall be apportioned to a LAMBRA by multiplying total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:

(i) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(ii) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(B) If a loss carryover is allowable pursuant to this section for any taxable year after the LAMBRA designation has expired, the LAMBRA shall be deemed to remain in existence for purposes of computing the limitation specified in paragraph (5) and allowing a net operating loss deduction.

(7) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative pursuant to Section 7110 of the Government Code.

(b) A taxpayer who qualifies as a "qualified taxpayer" under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

1 (c) If a taxpayer is eligible to qualify under this section and
2 either Section 17276.2, 17276.4, or 17276.6 as a “qualified
3 taxpayer,” with respect to a net operating loss in a taxable year,
4 the taxpayer shall designate which section is to apply to the
5 taxpayer.

6 (d) Notwithstanding Section 17276, the amount of the loss
7 determined under this section or Section 17276.2, 17276.4, or
8 17276.6 shall be the only net operating loss allowed to be carried
9 over from that taxable year and the designation under subdivision
10 (b) shall be included in the election under Section 17276.1.

11 (e) This section shall apply to taxable years beginning on or
12 after January 1, 1998.

13 (f) (1) *This section shall cease to be operative for taxable years*
14 *beginning on or after January 1, 2011.*

15 (2) *This section shall be repealed as of December 1, 2011.*

16 SEC. 18. *Section 17276.6 of the Revenue and Taxation Code*
17 *is amended to read:*

18 17276.6. (a) For each taxable year beginning on or after
19 January 1, 1998, the term “qualified taxpayer” as used in Section
20 17276.1 includes a person or entity that meets both of the
21 following:

22 (1) Is engaged in a trade or business within a targeted tax area
23 designated pursuant to Chapter 12.93 (commencing with Section
24 7097) of Division 7 of Title 1 of the Government Code.

25 (2) Is engaged in those lines of business described in Codes
26 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
27 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
28 of the Standard Industrial Classification (SIC) Manual published
29 by the United States Office of Management and Budget, 1987
30 edition. In the case of any pass-through entity, the determination
31 of whether a taxpayer is a qualified taxpayer under this section
32 shall be made at the entity level.

33 (b) For purposes of subdivision (a), all of the following shall
34 apply:

35 (1) A net operating loss shall not be a net operating loss
36 carryback to any taxable year and a net operating loss for any
37 taxable year beginning on or after the date that the area in which
38 the qualified taxpayer conducts a trade or business is designated
39 as a targeted tax area shall be a net operating loss carryover to each
40 of the 15 taxable years following the taxable year of loss.

(2) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the qualified taxpayer’s business activities within the targeted tax area (as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code) prior to the targeted tax area expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(A) Loss shall be apportioned to the targeted tax area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.

(B) “The targeted tax area” shall be substituted for “this state.”

(3) A net operating loss carryover shall be a deduction only with respect to the qualified taxpayer’s business income attributable to the targeted tax area as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(4) Attributable income shall be that portion of the qualified taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the qualified taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:

(A) Business income shall be apportioned to the targeted tax area by multiplying the total business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:

(i) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(ii) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(B) If a loss carryover is allowable pursuant to this subdivision for any taxable year after the targeted tax area expiration date, the targeted tax area designation shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (B) and allowing a net operating loss deduction.

(5) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(b) A taxpayer who qualifies as a “qualified taxpayer” under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 17276.2, 17276.4, or 17276.5 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.2, 17276.4, or 17276.5 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

(e) This section shall apply to taxable years beginning on or after January 1, 1998.

(f) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 19. *Section 17276.20 of the Revenue and Taxation Code is amended to read:*

17276.20. Except as provided in Sections 17276.1, ~~17276.2,~~
~~17276.4, 17276.5, 17276.6,~~ and 17276.7, the deduction provided

1 by Section 172 of the Internal Revenue Code, relating to net
2 operating loss deduction, shall be modified as follows:

3 (a) (1) Net operating losses attributable to taxable years
4 beginning before January 1, 1987, shall not be allowed.

5 (2) A net operating loss shall not be carried forward to any
6 taxable year beginning before January 1, 1987.

7 (b) (1) Except as provided in paragraphs (2) and (3), the
8 provisions of Section 172(b)(2) of the Internal Revenue Code,
9 relating to amount of carrybacks and carryovers, shall be modified
10 so that the applicable percentage of the entire amount of the net
11 operating loss for any taxable year shall be eligible for carryover
12 to any subsequent taxable year. For purposes of this subdivision,
13 the applicable percentage shall be:

14 (A) Fifty percent for any taxable year beginning before January
15 1, 2000.

16 (B) Fifty-five percent for any taxable year beginning on or after
17 January 1, 2000, and before January 1, 2002.

18 (C) Sixty percent for any taxable year beginning on or after
19 January 1, 2002, and before January 1, 2004.

20 (D) One hundred percent for any taxable year beginning on or
21 after January 1, 2004.

22 (2) In the case of a taxpayer who has a net operating loss in any
23 taxable year beginning on or after January 1, 1994, and who
24 operates a new business during that taxable year, each of the
25 following shall apply to each loss incurred during the first three
26 taxable years of operating the new business:

27 (A) If the net operating loss is equal to or less than the net loss
28 from the new business, 100 percent of the net operating loss shall
29 be carried forward as provided in subdivision (d).

30 (B) If the net operating loss is greater than the net loss from the
31 new business, the net operating loss shall be carried over as
32 follows:

33 (i) With respect to an amount equal to the net loss from the new
34 business, 100 percent of that amount shall be carried forward as
35 provided in subdivision (d).

36 (ii) With respect to the portion of the net operating loss that
37 exceeds the net loss from the new business, the applicable
38 percentage of that amount shall be carried forward as provided in
39 subdivision (d).

1 (C) For purposes of Section 172(b)(2) of the Internal Revenue
2 Code, the amount described in clause (ii) of subparagraph (B) shall
3 be absorbed before the amount described in clause (i) of
4 subparagraph (B).

5 (3) In the case of a taxpayer who has a net operating loss in any
6 taxable year beginning on or after January 1, 1994, and who
7 operates an eligible small business during that taxable year, each
8 of the following shall apply:

9 (A) If the net operating loss is equal to or less than the net loss
10 from the eligible small business, 100 percent of the net operating
11 loss shall be carried forward to the taxable years specified in
12 subdivision (d).

13 (B) If the net operating loss is greater than the net loss from the
14 eligible small business, the net operating loss shall be carried over
15 as follows:

16 (i) With respect to an amount equal to the net loss from the
17 eligible small business, 100 percent of that amount shall be carried
18 forward as provided in subdivision (d).

19 (ii) With respect to that portion of the net operating loss that
20 exceeds the net loss from the eligible small business, the applicable
21 percentage of that amount shall be carried forward as provided in
22 subdivision (d).

23 (C) For purposes of Section 172(b)(2) of the Internal Revenue
24 Code, the amount described in clause (ii) of subparagraph (B) shall
25 be absorbed before the amount described in clause (i) of
26 subparagraph (B).

27 (4) In the case of a taxpayer who has a net operating loss in a
28 taxable year beginning on or after January 1, 1994, and who
29 operates a business that qualifies as both a new business and an
30 eligible small business under this section, that business shall be
31 treated as a new business for the first three taxable years of the
32 new business.

33 (5) In the case of a taxpayer who has a net operating loss in a
34 taxable year beginning on or after January 1, 1994, and who
35 operates more than one business, and more than one of those
36 businesses qualifies as either a new business or an eligible small
37 business under this section, paragraph (2) shall be applied first,
38 except that if there is any remaining portion of the net operating
39 loss after application of clause (i) of subparagraph (B) of that
40 paragraph, paragraph (3) shall be applied to the remaining portion

1 of the net operating loss as though that remaining portion of the
2 net operating loss constituted the entire net operating loss.

3 (6) For purposes of this section, the term “net loss” means the
4 amount of net loss after application of Sections 465 and 469 of the
5 Internal Revenue Code.

6 (c) Section 172(b)(1) of the Internal Revenue Code, relating to
7 years to which the loss may be carried, is modified as follows:

8 (1) Net operating loss carrybacks shall not be allowed for any
9 net operating losses attributable to taxable years beginning before
10 January 1, 2013.

11 (2) A net operating loss attributable to taxable years beginning
12 on or after January 1, 2013, shall be a net operating loss carryback
13 to each of the two taxable years preceding the taxable year of the
14 loss in lieu of the number of years provided therein.

15 (A) For a net operating loss attributable to a taxable year
16 beginning on or after January 1, 2013, and before January 1, 2014,
17 the amount of carryback to any taxable year shall not exceed 50
18 percent of the net operating loss.

19 (B) For a net operating loss attributable to a taxable year
20 beginning on or after January 1, 2014, and before January 1, 2015,
21 the amount of carryback to any taxable year shall not exceed 75
22 percent of the net operating loss.

23 (C) For a net operating loss attributable to a taxable year
24 beginning on or after January 1, 2015, the amount of carryback to
25 any taxable year shall not exceed 100 percent of the net operating
26 loss.

27 (3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the
28 Internal Revenue Code, relating to special rules for REITs, and
29 Section 172(b)(1)(E) of the Internal Revenue Code, relating to
30 excess interest loss, and Section 172(h) of the Internal Revenue
31 Code, relating to corporate equity reduction interest losses, shall
32 apply as provided.

33 (4) A net operating loss carryback shall not be carried back to
34 any taxable year beginning before January 1, 2011.

35 (d) (1) (A) For a net operating loss for any taxable year
36 beginning on or after January 1, 1987, and before January 1, 2000,
37 Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified
38 to substitute “five taxable years” in lieu of “20 taxable years”
39 except as otherwise provided in paragraphs (2) and (3).

1 (B) For a net operating loss for any taxable year beginning on
2 or after January 1, 2000, and before January 1, 2008, Section
3 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to
4 substitute “10 taxable years” in lieu of “20 taxable years.”

5 (2) For any taxable year beginning before January 1, 2000, in
6 the case of a “new business,” the “five taxable years” in paragraph
7 (1) shall be modified to read as follows:

8 (A) “Eight taxable years” for a net operating loss attributable
9 to the first taxable year of that new business.

10 (B) “Seven taxable years” for a net operating loss attributable
11 to the second taxable year of that new business.

12 (C) “Six taxable years” for a net operating loss attributable to
13 the third taxable year of that new business.

14 (3) For any carryover of a net operating loss for which a
15 deduction is denied by Section 17276.3, the carryover period
16 specified in this subdivision shall be extended as follows:

17 (A) By one year for a net operating loss attributable to taxable
18 years beginning in 1991.

19 (B) By two years for a net operating loss attributable to taxable
20 years beginning prior to January 1, 1991.

21 (4) The net operating loss attributable to taxable years beginning
22 on or after January 1, 1987, and before January 1, 1994, shall be
23 a net operating loss carryover to each of the 10 taxable years
24 following the year of the loss if it is incurred by a taxpayer that is
25 under the jurisdiction of the court in a Title 11 or similar case at
26 any time during the income year. The loss carryover provided in
27 the preceding sentence shall not apply to any loss incurred after
28 the date the taxpayer is no longer under the jurisdiction of the court
29 in a Title 11 or similar case.

30 (e) For purposes of this section:

31 (1) “Eligible small business” means any trade or business that
32 has gross receipts, less returns and allowances, of less than one
33 million dollars (\$1,000,000) during the taxable year.

34 (2) Except as provided in subdivision (f), “new business” means
35 any trade or business activity that is first commenced in this state
36 on or after January 1, 1994.

37 (3) “Title 11 or similar case” shall have the same meaning as
38 in Section 368(a)(3) of the Internal Revenue Code.

1 (4) In the case of any trade or business activity conducted by a
2 partnership or “S” corporation paragraphs (1) and (2) shall be
3 applied to the partnership or “S” corporation.

4 (f) For purposes of this section, in determining whether a trade
5 or business activity qualifies as a new business under paragraph
6 (2) of subdivision (e), the following rules shall apply:

7 (1) In any case where a taxpayer purchases or otherwise acquires
8 all or any portion of the assets of an existing trade or business
9 (irrespective of the form of entity) that is doing business in this
10 state (within the meaning of Section 23101), the trade or business
11 thereafter conducted by the taxpayer (or any related person) shall
12 not be treated as a new business if the aggregate fair market value
13 of the acquired assets (including real, personal, tangible, and
14 intangible property) used by the taxpayer (or any related person)
15 in the conduct of its trade or business exceeds 20 percent of the
16 aggregate fair market value of the total assets of the trade or
17 business being conducted by the taxpayer (or any related person).
18 For purposes of this paragraph only, the following rules shall apply:

19 (A) The determination of the relative fair market values of the
20 acquired assets and the total assets shall be made as of the last day
21 of the first taxable year in which the taxpayer (or any related
22 person) first uses any of the acquired trade or business assets in
23 its business activity.

24 (B) Any acquired assets that constituted property described in
25 Section 1221(1) of the Internal Revenue Code in the hands of the
26 transferor shall not be treated as assets acquired from an existing
27 trade or business, unless those assets also constitute property
28 described in Section 1221(1) of the Internal Revenue Code in the
29 hands of the acquiring taxpayer (or related person).

30 (2) In any case where a taxpayer (or any related person) is
31 engaged in one or more trade or business activities in this state, or
32 has been engaged in one or more trade or business activities in this
33 state within the preceding 36 months (“prior trade or business
34 activity”), and thereafter commences an additional trade or business
35 activity in this state, the additional trade or business activity shall
36 only be treated as a new business if the additional trade or business
37 activity is classified under a different division of the Standard
38 Industrial Classification (SIC) Manual published by the United
39 States Office of Management and Budget, 1987 edition, than are

1 any of the taxpayer's (or any related person's) current or prior
2 trade or business activities.

3 (3) In any case where a taxpayer, including all related persons,
4 is engaged in trade or business activities wholly outside of this
5 state and the taxpayer first commences doing business in this state
6 (within the meaning of Section 23101) after December 31, 1993
7 (other than by purchase or other acquisition described in paragraph
8 (1)), the trade or business activity shall be treated as a new business
9 under paragraph (2) of subdivision (e).

10 (4) In any case where the legal form under which a trade or
11 business activity is being conducted is changed, the change in form
12 shall be disregarded and the determination of whether the trade or
13 business activity is a new business shall be made by treating the
14 taxpayer as having purchased or otherwise acquired all or any
15 portion of the assets of an existing trade or business under the rules
16 of paragraph (1) of this subdivision.

17 (5) "Related person" shall mean any person that is related to
18 the taxpayer under either Section 267 or 318 of the Internal
19 Revenue Code.

20 (6) "Acquire" shall include any gift, inheritance, transfer incident
21 to divorce, or any other transfer, whether or not for consideration.

22 (7) (A) For taxable years beginning on or after January 1, 1997,
23 the term "new business" shall include any taxpayer that is engaged
24 in biopharmaceutical activities or other biotechnology activities
25 that are described in Codes 2833 to 2836, inclusive, of the Standard
26 Industrial Classification (SIC) Manual published by the United
27 States Office of Management and Budget, 1987 edition, and as
28 further amended, and that has not received regulatory approval for
29 any product from the United States Food and Drug Administration.

30 (B) For purposes of this paragraph:

31 (i) "Biopharmaceutical activities" means those activities that
32 use organisms or materials derived from organisms, and their
33 cellular, subcellular, or molecular components, in order to provide
34 pharmaceutical products for human or animal therapeutics and
35 diagnostics. Biopharmaceutical activities make use of living
36 organisms to make commercial products, as opposed to
37 pharmaceutical activities that make use of chemical compounds
38 to produce commercial products.

39 (ii) "Other biotechnology activities" means activities consisting
40 of the application of recombinant DNA technology to produce

1 commercial products, as well as activities regarding pharmaceutical
2 delivery systems designed to provide a measure of control over
3 the rate, duration, and site of pharmaceutical delivery.

4 (g) In computing the modifications under Section 172(d)(2) of
5 the Internal Revenue Code, relating to capital gains and losses of
6 taxpayers other than corporations, the exclusion provided by
7 Section 18152.5 shall not be allowed.

8 (h) Notwithstanding any provisions of this section to the
9 contrary, a deduction shall be allowed to a “qualified taxpayer” as
10 provided in Sections 17276.1, ~~17276.2, 17276.4, 17276.5, 17276.6,~~
11 ~~and 17276.7.~~

12 (i) The Franchise Tax Board may prescribe appropriate
13 regulations to carry out the purposes of this section, including any
14 regulations necessary to prevent the avoidance of the purposes of
15 this section through splitups, shell corporations, partnerships, tiered
16 ownership structures, or otherwise.

17 (j) The Franchise Tax Board may reclassify any net operating
18 loss carryover determined under either paragraph (2) or (3) of
19 subdivision (b) as a net operating loss carryover under paragraph
20 (1) of subdivision (b) upon a showing that the reclassification is
21 necessary to prevent evasion of the purposes of this section.

22 (k) Except as otherwise provided, the amendments made by
23 Chapter 107 of the Statutes of 2000 shall apply to net operating
24 losses for taxable years beginning on or after January 1, 2000.

25 (l) *The changes made to this section by the act adding this*
26 *subdivision shall apply for taxable years beginning on or after*
27 *January 1, 2011.*

28 *SEC. 20. Section 17276.22 of the Revenue and Taxation Code*
29 *is repealed.*

30 ~~17276.22. Notwithstanding Section 17276.1, 17276.2, 17276.4,~~
31 ~~17276.5, 17276.6, or 17276.7 to the contrary, a net operating loss~~
32 ~~attributable to a taxable year beginning on or after January 1, 2008,~~
33 ~~shall be a net operating carryover to each of the 20 taxable years~~
34 ~~following the year of the loss, and a net operating loss attributable~~
35 ~~to a taxable year beginning on or after January 1, 2013, shall also~~
36 ~~be a net operating loss carryback to each of the two taxable years~~
37 ~~preceding the taxable year of loss.~~

38 *SEC. 21. Section 17276.22 is added to the Revenue and*
39 *Taxation Code, to read:*

17276.22. (a) For any carryover of a net operating loss for which an election under former Section 17276.2, 17276.4, 17276.5, or 17276.6 was made, the net operating loss carryover amount available for carryover under former Section 17276.2, 17276.4, 17276.5, or 17276.6 to the first taxable year beginning on or after January 1, 2011, shall be recalculated by applying the net operating loss rules applicable for the taxable year to which the net operating loss was incurred, as provided in Section 17276.20 or former Section 17276. This recalculated amount, if in excess of zero, shall be added to the amount of any net operating loss attributable to the same taxable year that is available for carryover to the first taxable year beginning on or after January 1, 2011, under Section 17276.20 and shall be treated as if no election under former Section 17276.2, 17276.4, 17276.5, or 17276.6 had been made with respect to that recalculated amount.

(b) To the extent that the application of subdivision (a) reduces the net operating loss carryover amount available for taxable years beginning on or after January 1, 2011, to an amount equal to or less than zero, no amount of net operating loss attributable to this recalculated amount shall be available for carryover to a taxable year beginning on or after January 1, 2011. The application of this section shall not be interpreted to reduce the amount of a net operating loss deduction under former Section 17276.2, 17276.4, 17276.5, or 17276.6 for any taxable year beginning before January 1, 2011.

SEC. 22. Section 23101 of the Revenue and Taxation Code is amended to read:

23101. (a) “Doing business” means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(b) For taxable years beginning on or after January 1, 2011, a taxpayer is doing business in this state for a taxable year if any of the following conditions has been satisfied:

(1) The taxpayer is organized or commercially domiciled in this state.

(2) Sales, as defined in subdivision (e) or (f) of Section 25120 as applicable for the taxable year, of the taxpayer in this state exceed the lesser of five hundred thousand dollars (\$500,000) or 25 percent of the taxpayer’s total sales. For purposes of this paragraph, sales of the taxpayer include sales by an agent or independent contractor of the taxpayer. For purposes of this

paragraph, sales in this state shall be determined using the rules for assigning sales under ~~Section~~ *Sections* 25135 and ~~subdivision (b) of Section~~ 25136, and the regulations thereunder, as modified by regulations under Section 25137.

(3) The real property and tangible personal property of the taxpayer in this state exceed the lesser of fifty thousand dollars (\$50,000) or 25 percent of the taxpayer's total real property and tangible personal property. The value of real and tangible personal property and the determination of whether property is in this state shall be determined using the rules contained in Sections 25129 to 25131, inclusive, and the regulations thereunder, as modified by regulation under Section 25137.

(4) The amount paid in this state by the taxpayer for compensation, as defined in subdivision (c) of Section 25120, exceeds the lesser of fifty thousand dollars (\$50,000) or 25 percent of the total compensation paid by the taxpayer. Compensation in this state shall be determined using the rules for assigning payroll contained in Section 25133 and the regulations thereunder, as modified by regulations under Section 25137.

(c) (1) The Franchise Tax Board shall annually revise the amounts in paragraphs (2), (3), and (4) of subdivision (b) in accordance with subdivision (h) of Section 17041.

(2) For purposes of the adjustment required by paragraph (1), subdivision (h) of Section 17041 shall be applied by substituting "2012" in lieu of "1988."

(d) The sales, property, and payroll of the taxpayer include the taxpayer's pro rata or distributive share of pass-through entities. For purposes of this subdivision, "pass-through entities" means a partnership or an "S" corporation.

SEC. 23. Section 23611 is added to the Revenue and Taxation Code, to read:

23611. (a) Notwithstanding any other provision or former provision of this part to the contrary, a credit available for carryover under former sections of this part identified in subdivision (b) shall not be allowed to be carried over to any taxable year beginning on or after January 1, 2011.

(b) This section shall apply to credit carryovers under the following former sections of this part:

1 (1) Former Section 23612.6, as identified in subparagraph (I)
2 of paragraph (1) of subdivision (d) of Section 23036, as in effect
3 on the effective date of the act adding this section.

4 (2) Former Section 23623.5, as identified in subparagraph (M)
5 of paragraph (1) of subdivision (d) of Section 23036, as in effect
6 on the effective date of the act adding this section.

7 (3) Former Section 23625, as identified in subparagraph (N)
8 of paragraph (1) of subdivision (d) of Section 23036, as in effect
9 on the effective date of the act adding this section.

10 SEC. 24. Section 23612.2 of the Revenue and Taxation Code
11 is amended to read:

12 23612.2. (a) There shall be allowed as a credit against the
13 “tax” (as defined by Section 23036) for the taxable year an amount
14 equal to the sales or use tax paid or incurred during the taxable
15 year by the taxpayer in connection with the taxpayer’s purchase
16 of qualified property.

17 (b) For purposes of this section:

18 (1) “Taxpayer” means a corporation engaged in a trade or
19 business within an enterprise zone.

20 (2) “Qualified property” means:

21 (A) Any of the following:

22 (i) Machinery and machinery parts used for fabricating,
23 processing, assembling, and manufacturing.

24 (ii) Machinery and machinery parts used for the production of
25 renewable energy resources.

26 (iii) Machinery and machinery parts used for either of the
27 following:

28 (I) Air pollution control mechanisms.

29 (II) Water pollution control mechanisms.

30 (iv) Data-processing and communications equipment, including,
31 but not limited to, computers, computer-automated drafting
32 systems, copy machines, telephone systems, and faxes.

33 (v) Motion picture manufacturing equipment central to
34 production and postproduction, including, but not limited to,
35 cameras, audio recorders, and digital image and sound processing
36 equipment.

37 (B) The total cost of qualified property purchased and placed
38 in service in any taxable year that may be taken into account by
39 any taxpayer for purposes of claiming this credit shall not exceed
40 twenty million dollars (\$20,000,000).

1 (C) The qualified property is used by the taxpayer exclusively
2 in an enterprise zone.

3 (D) The qualified property is purchased and placed in service
4 before the date the enterprise zone designation expires, is no longer
5 binding, or becomes inoperative.

6 (3) "Enterprise zone" means the area designated as an enterprise
7 zone pursuant to Chapter 12.8 (commencing with Section 7070)
8 of Division 7 of Title 1 of the Government Code.

9 (c) If the taxpayer has purchased property upon which a use tax
10 has been paid or incurred, the credit provided by this section shall
11 be allowed only if qualified property of a comparable quality and
12 price is not timely available for purchase in this state.

13 (d) In the case where the credit otherwise allowed under this
14 section exceeds the "tax" for the taxable year, that portion of the
15 credit which exceeds the "tax" may be carried over and added to
16 the credit, if any, in the following year, and succeeding years if
17 necessary, until the credit is exhausted. The credit shall be applied
18 first to the earliest taxable years possible.

19 (e) Any taxpayer who elects to be subject to this section shall
20 not be entitled to increase the basis of the qualified property as
21 otherwise required by Section 164(a) of the Internal Revenue Code
22 with respect to sales or use tax paid or incurred in connection with
23 the taxpayer's purchase of qualified property.

24 (f) (1) The amount of credit otherwise allowed under this
25 section and Section 23622.7, including any credit carryover from
26 prior years, that may reduce the "tax" for the taxable year shall
27 not exceed the amount of tax which would be imposed on the
28 taxpayer's business income attributable to the enterprise zone
29 determined as if that attributable income represented all of the
30 income of the taxpayer subject to tax under this part.

31 (2) Attributable income shall be that portion of the taxpayer's
32 California source business income that is apportioned to the
33 enterprise zone. For that purpose, the taxpayer's business income
34 attributable to sources in this state first shall be determined in
35 accordance with Chapter 17 (commencing with Section 25101).
36 That business income shall be further apportioned to the enterprise
37 zone in accordance with Article 2 (commencing with Section
38 25120) of Chapter 17, modified for purposes of this section in
39 accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (d).

(g) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1998.

(h) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (d), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (f) of Section 23036 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(i) This section shall be repealed as of December 1, 2011.

SEC. 25. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) There shall be allowed a credit against the "tax" (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

1 (1) Fifty percent of qualified wages in the first year of
2 employment.

3 (2) Forty percent of qualified wages in the second year of
4 employment.

5 (3) Thirty percent of qualified wages in the third year of
6 employment.

7 (4) Twenty percent of qualified wages in the fourth year of
8 employment.

9 (5) Ten percent of qualified wages in the fifth year of
10 employment.

11 (b) For purposes of this section:

12 (1) “Qualified wages” means:

13 (A) (i) Except as provided in clause (ii), that portion of wages
14 paid or incurred by the taxpayer during the taxable year to qualified
15 employees that does not exceed 150 percent of the minimum wage.

16 (ii) For up to 1,350 qualified employees who are employed by
17 the taxpayer in the Long Beach Enterprise Zone in aircraft
18 manufacturing activities described in Codes 3721 to 3728,
19 inclusive, and Code 3812 of the Standard Industrial Classification
20 (SIC) Manual published by the United States Office of
21 Management and Budget, 1987 edition, “qualified wages” means
22 that portion of hourly wages that does not exceed 202 percent of
23 the minimum wage.

24 (B) Wages received during the 60-month period beginning with
25 the first day the employee commences employment with the
26 taxpayer. Reemployment in connection with any increase, including
27 a regularly occurring seasonal increase, in the trade or business
28 operations of the taxpayer does not constitute commencement of
29 employment for purposes of this section.

30 (C) Qualified wages do not include any wages paid or incurred
31 by the taxpayer on or after the zone expiration date. However,
32 wages paid or incurred with respect to qualified employees who
33 are employed by the taxpayer within the enterprise zone within
34 the 60-month period prior to the zone expiration date shall continue
35 to qualify for the credit under this section after the zone expiration
36 date, in accordance with all provisions of this section applied as
37 if the enterprise zone designation were still in existence and
38 binding.

39 (2) “Minimum wage” means the wage established by the
40 Industrial Welfare Commission as provided for in Chapter 1

1 (commencing with Section 1171) of Part 4 of Division 2 of the
2 Labor Code.

3 (3) “Zone expiration date” means the date the enterprise zone
4 designation expires, is no longer binding, or becomes inoperative.

5 (4) (A) “Qualified employee” means an individual who meets
6 all of the following requirements:

7 (i) At least 90 percent of whose services for the taxpayer during
8 the taxable year are directly related to the conduct of the taxpayer’s
9 trade or business located in an enterprise zone.

10 (ii) Performs at least 50 percent of his or her services for the
11 taxpayer during the taxable year in an enterprise zone.

12 (iii) Is hired by the taxpayer after the date of original designation
13 of the area in which services were performed as an enterprise zone.

14 (iv) Is any of the following:

15 (I) Immediately preceding the qualified employee’s
16 commencement of employment with the taxpayer, was a person
17 eligible for services under the federal Job Training Partnership
18 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
19 or is eligible to receive, subsidized employment, training, or
20 services funded by the federal Job Training Partnership Act, or its
21 successor.

22 (II) Immediately preceding the qualified employee’s
23 commencement of employment with the taxpayer, was a person
24 eligible to be a voluntary or mandatory registrant under the Greater
25 Avenues for Independence Act of 1985 (GAIN) provided for
26 pursuant to Article 3.2 (commencing with Section 11320) of
27 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
28 Code, or its successor.

29 (III) Immediately preceding the qualified employee’s
30 commencement of employment with the taxpayer, was an
31 economically disadvantaged individual 14 years of age or older.

32 (IV) Immediately preceding the qualified employee’s
33 commencement of employment with the taxpayer, was a dislocated
34 worker who meets any of the following:

35 (aa) Has been terminated or laid off or who has received a notice
36 of termination or layoff from employment, is eligible for or has
37 exhausted entitlement to unemployment insurance benefits, and
38 is unlikely to return to his or her previous industry or occupation.

39 (bb) Has been terminated or has received a notice of termination
40 of employment as a result of any permanent closure or any

1 substantial layoff at a plant, facility, or enterprise, including an
2 individual who has not received written notification but whose
3 employer has made a public announcement of the closure or layoff.

4 (cc) Is long-term unemployed and has limited opportunities for
5 employment or reemployment in the same or a similar occupation
6 in the area in which the individual resides, including an individual
7 55 years of age or older who may have substantial barriers to
8 employment by reason of age.

9 (dd) Was self-employed (including farmers and ranchers) and
10 is unemployed as a result of general economic conditions in the
11 community in which he or she resides or because of natural
12 disasters.

13 (ee) Was a civilian employee of the Department of Defense
14 employed at a military installation being closed or realigned under
15 the Defense Base Closure and Realignment Act of 1990.

16 (ff) Was an active member of the armed forces or National
17 Guard as of September 30, 1990, and was either involuntarily
18 separated or separated pursuant to a special benefits program.

19 (gg) Is a seasonal or migrant worker who experiences chronic
20 seasonal unemployment and underemployment in the agriculture
21 industry, aggravated by continual advancements in technology and
22 mechanization.

23 (hh) Has been terminated or laid off, or has received a notice
24 of termination or layoff, as a consequence of compliance with the
25 Clean Air Act.

26 (V) Immediately preceding the qualified employee's
27 commencement of employment with the taxpayer, was a disabled
28 individual who is eligible for or enrolled in, or has completed a
29 state rehabilitation plan or is a service-connected disabled veteran,
30 veteran of the Vietnam era, or veteran who is recently separated
31 from military service.

32 (VI) Immediately preceding the qualified employee's
33 commencement of employment with the taxpayer, was an
34 ex-offender. An individual shall be treated as convicted if he or
35 she was placed on probation by a state court without a finding of
36 guilt.

37 (VII) Immediately preceding the qualified employee's
38 commencement of employment with the taxpayer, was a person
39 eligible for or a recipient of any of the following:

40 (aa) Federal Supplemental Security Income benefits.

1 (bb) Aid to Families with Dependent Children.

2 (cc) Food stamps.

3 (dd) State and local general assistance.

4 (VIII) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was a member
6 of a federally recognized Indian tribe, band, or other group of
7 Native American descent.

8 (IX) Immediately preceding the qualified employee's
9 commencement of employment with the taxpayer, was a resident
10 of a targeted employment area (as defined in Section 7072 of the
11 Government Code).

12 (X) An employee who qualified the taxpayer for the enterprise
13 zone hiring credit under former Section 23622 or the program area
14 hiring credit under former Section 23623.

15 (XI) Immediately preceding the qualified employee's
16 commencement of employment with the taxpayer, was a member
17 of a targeted group, as defined in Section 51(d) of the Internal
18 Revenue Code, or its successor.

19 (B) Priority for employment shall be provided to an individual
20 who is enrolled in a qualified program under the federal Job
21 Training Partnership Act or the Greater Avenues for Independence
22 Act of 1985 or who is eligible as a member of a targeted group
23 under the Work Opportunity Tax Credit (Section 51 of the Internal
24 Revenue Code), or its successor.

25 (5) "Taxpayer" means a corporation engaged in a trade or
26 business within an enterprise zone designated pursuant to Chapter
27 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
28 the Government Code.

29 (6) "Seasonal employment" means employment by a taxpayer
30 that has regular and predictable substantial reductions in trade or
31 business operations.

32 (c) The taxpayer shall do both of the following:

33 (1) Obtain from the Employment Development Department, as
34 permitted by federal law, the local county or city Job Training
35 Partnership Act administrative entity, the local county GAIN office
36 or social services agency, or the local government administering
37 the enterprise zone, a certification that provides that a qualified
38 employee meets the eligibility requirements specified in clause
39 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
40 Employment Development Department may provide preliminary

1 screening and referral to a certifying agency. The Employment
2 Development Department shall develop a form for this purpose.
3 The Department of Housing and Community Development shall
4 develop regulations governing the issuance of certificates by local
5 governments pursuant to subdivision (a) of Section 7086 of the
6 Government Code.

7 (2) Retain a copy of the certification and provide it upon request
8 to the Franchise Tax Board.

9 (d) (1) For purposes of this section:

10 (A) All employees of all corporations which are members of
11 the same controlled group of corporations shall be treated as
12 employed by a single taxpayer.

13 (B) The credit, if any, allowable by this section to each member
14 shall be determined by reference to its proportionate share of the
15 expense of the qualified wages giving rise to the credit, and shall
16 be allocated in that manner.

17 (C) For purposes of this subdivision, “controlled group of
18 corporations” means “controlled group of corporations” as defined
19 in Section 1563(a) of the Internal Revenue Code, except that:

20 (i) “More than 50 percent” shall be substituted for “at least 80
21 percent” each place it appears in Section 1563(a)(1) of the Internal
22 Revenue Code.

23 (ii) The determination shall be made without regard to
24 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
25 Revenue Code.

26 (2) If an employer acquires the major portion of a trade or
27 business of another employer (hereinafter in this paragraph referred
28 to as the “predecessor”) or the major portion of a separate unit of
29 a trade or business of a predecessor, then, for purposes of applying
30 this section (other than subdivision (e)) for any calendar year
31 ending after that acquisition, the employment relationship between
32 a qualified employee and an employer shall not be treated as
33 terminated if the employee continues to be employed in that trade
34 or business.

35 (e) (1) (A) If the employment, other than seasonal employment,
36 of any qualified employee with respect to whom qualified wages
37 are taken into account under subdivision (a) is terminated by the
38 taxpayer at any time during the first 270 days of that employment,
39 whether or not consecutive, or before the close of the 270th
40 calendar day after the day in which that employee completes 90

1 days of employment with the taxpayer, the tax imposed by this
2 part for the taxable year in which that employment is terminated
3 shall be increased by an amount equal to the credit allowed under
4 subdivision (a) for that taxable year and all prior taxable years
5 attributable to qualified wages paid or incurred with respect to that
6 employee.

7 (B) If the seasonal employment of any qualified employee, with
8 respect to whom qualified wages are taken into account under
9 subdivision (a) is not continued by the taxpayer for a period of
10 270 days of employment during the 60-month period beginning
11 with the day the qualified employee commences seasonal
12 employment with the taxpayer, the tax imposed by this part, for
13 the taxable year that includes the 60th month following the month
14 in which the qualified employee commences seasonal employment
15 with the taxpayer, shall be increased by an amount equal to the
16 credit allowed under subdivision (a) for that taxable year and all
17 prior taxable years attributable to qualified wages paid or incurred
18 with respect to that qualified employee.

19 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
20 any of the following:

21 (i) A termination of employment of a qualified employee who
22 voluntarily leaves the employment of the taxpayer.

23 (ii) A termination of employment of a qualified employee who,
24 before the close of the period referred to in subparagraph (A) of
25 paragraph (1), becomes disabled and unable to perform the services
26 of that employment, unless that disability is removed before the
27 close of that period and the taxpayer fails to offer reemployment
28 to that employee.

29 (iii) A termination of employment of a qualified employee, if
30 it is determined that the termination was due to the misconduct (as
31 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
32 the California Code of Regulations) of that employee.

33 (iv) A termination of employment of a qualified employee due
34 to a substantial reduction in the trade or business operations of the
35 taxpayer.

36 (v) A termination of employment of a qualified employee, if
37 that employee is replaced by other qualified employees so as to
38 create a net increase in both the number of employees and the
39 hours of employment.

1 (B) Subparagraph (B) of paragraph (1) shall not apply to any
2 of the following:

3 (i) A failure to continue the seasonal employment of a qualified
4 employee who voluntarily fails to return to the seasonal
5 employment of the taxpayer.

6 (ii) A failure to continue the seasonal employment of a qualified
7 employee who, before the close of the period referred to in
8 subparagraph (B) of paragraph (1), becomes disabled and unable
9 to perform the services of that seasonal employment, unless that
10 disability is removed before the close of that period and the
11 taxpayer fails to offer seasonal employment to that qualified
12 employee.

13 (iii) A failure to continue the seasonal employment of a qualified
14 employee, if it is determined that the failure to continue the
15 seasonal employment was due to the misconduct (as defined in
16 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
17 Code of Regulations) of that qualified employee.

18 (iv) A failure to continue seasonal employment of a qualified
19 employee due to a substantial reduction in the regular seasonal
20 trade or business operations of the taxpayer.

21 (v) A failure to continue the seasonal employment of a qualified
22 employee, if that qualified employee is replaced by other qualified
23 employees so as to create a net increase in both the number of
24 seasonal employees and the hours of seasonal employment.

25 (C) For purposes of paragraph (1), the employment relationship
26 between the taxpayer and a qualified employee shall not be treated
27 as terminated by either of the following:

28 (i) By a transaction to which Section 381(a) of the Internal
29 Revenue Code applies, if the qualified employee continues to be
30 employed by the acquiring corporation.

31 (ii) By reason of a mere change in the form of conducting the
32 trade or business of the taxpayer, if the qualified employee
33 continues to be employed in that trade or business and the taxpayer
34 retains a substantial interest in that trade or business.

35 (3) Any increase in tax under paragraph (1) shall not be treated
36 as tax imposed by this part for purposes of determining the amount
37 of any credit allowable under this part.

38 (f) Rules similar to the rules provided in Section 46(e) and (h)
39 of the Internal Revenue Code shall apply to both of the following:

1 (1) An organization to which Section 593 of the Internal
2 Revenue Code applies.

3 (2) A regulated investment company or a real estate investment
4 trust subject to taxation under this part.

5 (g) For purposes of this section, “enterprise zone” means an
6 area designated as an enterprise zone pursuant to Chapter 12.8
7 (commencing with Section 7070) of Division 7 of Title 1 of the
8 Government Code.

9 (h) The credit allowable under this section shall be reduced by
10 the credit allowed under Sections 23623.5, 23625, and 23646
11 claimed for the same employee. The credit shall also be reduced
12 by the federal credit allowed under Section 51 of the Internal
13 Revenue Code.

14 In addition, any deduction otherwise allowed under this part for
15 the wages or salaries paid or incurred by the taxpayer upon which
16 the credit is based shall be reduced by the amount of the credit,
17 prior to any reduction required by subdivision (i) or (j).

18 (i) In the case where the credit otherwise allowed under this
19 section exceeds the “tax” for the taxable year, that portion of the
20 credit that exceeds the “tax” may be carried over and added to the
21 credit, if any, in succeeding taxable years, until the credit is
22 exhausted. The credit shall be applied first to the earliest taxable
23 years possible.

24 (j) (1) The amount of the credit otherwise allowed under this
25 section and Section 23612.2, including any credit carryover from
26 prior years, that may reduce the “tax” for the taxable year shall
27 not exceed the amount of tax which would be imposed on the
28 taxpayer’s business income attributable to the enterprise zone
29 determined as if that attributable income represented all of the
30 income of the taxpayer subject to tax under this part.

31 (2) Attributable income shall be that portion of the taxpayer’s
32 California source business income that is apportioned to the
33 enterprise zone. For that purpose, the taxpayer’s business
34 attributable to sources in this state first shall be determined in
35 accordance with Chapter 17 (commencing with Section 25101).
36 That business income shall be further apportioned to the enterprise
37 zone in accordance with Article 2 (commencing with Section
38 25120) of Chapter 17, modified for purposes of this section in
39 accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

(l) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (i), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (f) of Section 23036 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(m) This section shall be repealed as of December 1, 2011.

SEC. 26. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:

1 (1) Fifty percent of the qualified wages in the first year of
2 employment.

3 (2) Forty percent of the qualified wages in the second year of
4 employment.

5 (3) Thirty percent of the qualified wages in the third year of
6 employment.

7 (4) Twenty percent of the qualified wages in the fourth year of
8 employment.

9 (5) Ten percent of the qualified wages in the fifth year of
10 employment.

11 (b) For purposes of this section:

12 (1) “Qualified wages” means:

13 (A) That portion of wages paid or incurred by the qualified
14 taxpayer during the taxable year to qualified disadvantaged
15 individuals that does not exceed 150 percent of the minimum wage.

16 (B) The total amount of qualified wages which may be taken
17 into account for purposes of claiming the credit allowed under this
18 section shall not exceed two million dollars (\$2,000,000) per
19 taxable year.

20 (C) Wages received during the 60-month period beginning with
21 the first day the qualified disadvantaged individual commences
22 employment with the qualified taxpayer. Reemployment in
23 connection with any increase, including a regularly occurring
24 seasonal increase, in the trade or business operations of the
25 qualified taxpayer does not constitute commencement of
26 employment for purposes of this section.

27 (D) Qualified wages do not include any wages paid or incurred
28 by the qualified taxpayer on or after the manufacturing
29 enhancement area expiration date. However, wages paid or incurred
30 with respect to qualified employees who are employed by the
31 qualified taxpayer within the manufacturing enhancement area
32 within the 60-month period prior to the manufacturing enhancement
33 area expiration date shall continue to qualify for the credit under
34 this section after the manufacturing enhancement area expiration
35 date, in accordance with all provisions of this section applied as
36 if the manufacturing enhancement area designation were still in
37 existence and binding.

38 (2) “Minimum wage” means the wage established by the
39 Industrial Welfare Commission as provided for in Chapter 1

1 (commencing with Section 1171) of Part 4 of Division 2 of the
2 Labor Code.

3 (3) “Manufacturing enhancement area” means an area designated
4 pursuant to Section 7073.8 of the Government Code according to
5 the procedures of Chapter 12.8 (commencing with Section 7070)
6 of Division 7 of Title 1 of the Government Code.

7 (4) “Manufacturing enhancement area expiration date” means
8 the date the manufacturing enhancement area designation expires,
9 is no longer binding, or becomes inoperative.

10 (5) “Qualified disadvantaged individual” means an individual
11 who satisfies all of the following requirements:

12 (A) (i) At least 90 percent of whose services for the qualified
13 taxpayer during the taxable year are directly related to the conduct
14 of the qualified taxpayer’s trade or business located in a
15 manufacturing enhancement area.

16 (ii) Who performs at least 50 percent of his or her services for
17 the qualified taxpayer during the taxable year in the manufacturing
18 enhancement area.

19 (B) Who is hired by the qualified taxpayer after the designation
20 of the area as a manufacturing enhancement area in which the
21 individual’s services were primarily performed.

22 (C) Who is any of the following immediately preceding the
23 individual’s commencement of employment with the qualified
24 taxpayer:

25 (i) An individual who has been determined eligible for services
26 under the federal Job Training Partnership Act (29 U.S.C. Sec.
27 1501 et seq.) or its successor.

28 (ii) Any voluntary or mandatory registrant under the Greater
29 Avenues for Independence Act of 1985, or its successor, as
30 provided pursuant to Article 3.2 (commencing with Section 11320)
31 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
32 Code.

33 (iii) Any individual who has been certified eligible by the
34 Employment Development Department under the federal Targeted
35 Jobs Tax Credit Program, or its successor, whether or not this
36 program is in effect.

37 (6) “Qualified taxpayer” means any corporation engaged in a
38 trade or business within a manufacturing enhancement area
39 designated pursuant to Section 7073.8 of the Government Code
40 and that meets all of the following requirements:

1 (A) Is engaged in those lines of business described in Codes
2 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
3 inclusive, of the Standard Industrial Classification (SIC) Manual
4 published by the United States Office of Management and Budget,
5 1987 edition.

6 (B) At least 50 percent of the qualified taxpayer's workforce
7 hired after the designation of the manufacturing enhancement area
8 is composed of individuals who, at the time of hire, are residents
9 of the county in which the manufacturing enhancement area is
10 located.

11 (C) Of this percentage of local hires, at least 30 percent shall
12 be qualified disadvantaged individuals.

13 (7) "Seasonal employment" means employment by a qualified
14 taxpayer that has regular and predictable substantial reductions in
15 trade or business operations.

16 (c) (1) For purposes of this section, all of the following apply:

17 (A) All employees of all corporations that are members of the
18 same controlled group of corporations shall be treated as employed
19 by a single qualified taxpayer.

20 (B) The credit (if any) allowable by this section with respect to
21 each member shall be determined by reference to its proportionate
22 share of the expenses of the qualified wages giving rise to the
23 credit and shall be allocated in that manner.

24 (C) Principles that apply in the case of controlled groups of
25 corporations, as specified in subdivision (d) of Section 23622.7,
26 shall apply with respect to determining employment.

27 (2) If a qualified taxpayer acquires the major portion of a trade
28 or business of another employer (hereinafter in this paragraph
29 referred to as the "predecessor") or the major portion of a separate
30 unit of a trade or business of a predecessor, then, for purposes of
31 applying this section (other than subdivision (d)) for any calendar
32 year ending after that acquisition, the employment relationship
33 between a qualified disadvantaged individual and a qualified
34 taxpayer shall not be treated as terminated if the qualified
35 disadvantaged individual continues to be employed in that trade
36 or business.

37 (d) (1) (A) If the employment, other than seasonal employment,
38 of any qualified disadvantaged individual, with respect to whom
39 qualified wages are taken into account under subdivision (b) is
40 terminated by the qualified taxpayer at any time during the first

1 270 days of that employment (whether or not consecutive) or before
2 the close of the 270th calendar day after the day in which that
3 qualified disadvantaged individual completes 90 days of
4 employment with the qualified taxpayer, the tax imposed by this
5 part for the taxable year in which that employment is terminated
6 shall be increased by an amount equal to the credit allowed under
7 subdivision (a) for that taxable year and all prior taxable years
8 attributable to qualified wages paid or incurred with respect to that
9 qualified disadvantaged individual.

10 (B) If the seasonal employment of any qualified disadvantaged
11 individual, with respect to whom qualified wages are taken into
12 account under subdivision (a) is not continued by the qualified
13 taxpayer for a period of 270 days of employment during the
14 60-month period beginning with the day the qualified
15 disadvantaged individual commences seasonal employment with
16 the qualified taxpayer, the tax imposed by this part, for the income
17 year that includes the 60th month following the month in which
18 the qualified disadvantaged individual commences seasonal
19 employment with the qualified taxpayer, shall be increased by an
20 amount equal to the credit allowed under subdivision (a) for that
21 taxable year and all prior taxable years attributable to qualified
22 wages paid or incurred with respect to that qualified disadvantaged
23 individual.

24 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
25 any of the following:

26 (i) A termination of employment of a qualified disadvantaged
27 individual who voluntarily leaves the employment of the qualified
28 taxpayer.

29 (ii) A termination of employment of a qualified disadvantaged
30 individual who, before the close of the period referred to in
31 subparagraph (A) of paragraph (1), becomes disabled to perform
32 the services of that employment, unless that disability is removed
33 before the close of that period and the qualified taxpayer fails to
34 offer reemployment to that individual.

35 (iii) A termination of employment of a qualified disadvantaged
36 individual, if it is determined that the termination was due to the
37 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,
38 of Title 22 of the California Code of Regulations) of that individual.

1 (iv) A termination of employment of a qualified disadvantaged
2 individual due to a substantial reduction in the trade or business
3 operations of the qualified taxpayer.

4 (v) A termination of employment of a qualified disadvantaged
5 individual, if that individual is replaced by other qualified
6 disadvantaged individuals so as to create a net increase in both the
7 number of employees and the hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a qualified
11 disadvantaged individual who voluntarily fails to return to the
12 seasonal employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a qualified
14 disadvantaged individual who, before the close of the period
15 referred to in subparagraph (B) of paragraph (1), becomes disabled
16 and unable to perform the services of that seasonal employment,
17 unless that disability is removed before the close of that period
18 and the qualified taxpayer fails to offer seasonal employment to
19 that qualified disadvantaged individual.

20 (iii) A failure to continue the seasonal employment of a qualified
21 disadvantaged individual, if it is determined that the failure to
22 continue the seasonal employment was due to the misconduct (as
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
24 the California Code of Regulations) of that qualified disadvantaged
25 individual.

26 (iv) A failure to continue seasonal employment of a qualified
27 disadvantaged individual due to a substantial reduction in the
28 regular seasonal trade or business operations of the qualified
29 taxpayer.

30 (v) A failure to continue the seasonal employment of a qualified
31 disadvantaged individual, if that qualified disadvantaged individual
32 is replaced by other qualified disadvantaged individuals so as to
33 create a net increase in both the number of seasonal employees
34 and the hours of seasonal employment.

35 (C) For purposes of paragraph (1), the employment relationship
36 between the qualified taxpayer and a qualified disadvantaged
37 individual shall not be treated as terminated by either of the
38 following:

1 (i) By a transaction to which Section 381(a) of the Internal
2 Revenue Code applies, if the qualified disadvantaged individual
3 continues to be employed by the acquiring corporation.

4 (ii) By reason of a mere change in the form of conducting the
5 trade or business of the qualified taxpayer, if the qualified
6 disadvantaged individual continues to be employed in that trade
7 or business and the qualified taxpayer retains a substantial interest
8 in that trade or business.

9 (3) Any increase in tax under paragraph (1) shall not be treated
10 as tax imposed by this part for purposes of determining the amount
11 of any credit allowable under this part.

12 (e) The credit shall be reduced by the credit allowed under
13 Section 23621. The credit shall also be reduced by the federal
14 credit allowed under Section 51 of the Internal Revenue Code.

15 In addition, any deduction otherwise allowed under this part for
16 the wages or salaries paid or incurred by the qualified taxpayer
17 upon which the credit is based shall be reduced by the amount of
18 the credit, prior to any reduction required by subdivision (f) or (g).

19 (f) In the case where the credit otherwise allowed under this
20 section exceeds the “tax” for the taxable year, that portion of the
21 credit that exceeds the “tax” may be carried over and added to the
22 credit, if any, in succeeding years, until the credit is exhausted.
23 The credit shall be applied first to the earliest taxable years
24 possible.

25 (g) (1) The amount of credit otherwise allowed under this
26 section, including prior year credit carryovers, that may reduce
27 the “tax” for the taxable year shall not exceed the amount of tax
28 that would be imposed on the qualified taxpayer’s business income
29 attributed to a manufacturing enhancement area determined as if
30 that attributed income represented all of the net income of the
31 qualified taxpayer subject to tax under this part.

32 (2) Attributable income is that portion of the taxpayer’s
33 California source business income that is apportioned to the
34 manufacturing enhancement area. For that purpose, the taxpayer’s
35 business income attributable to sources in this state first shall be
36 determined in accordance with Chapter 17 (commencing with
37 Section 25101). That business income shall be further apportioned
38 to the manufacturing enhancement area in accordance with Article
39 2 (commencing with Section 25120) of Chapter 17, modified for
40 purposes of this section in accordance with paragraph (3).

1 (3) Income shall be apportioned to a manufacturing enhancement
2 area by multiplying the total California business income of the
3 taxpayer by a fraction, the numerator of which is the property
4 factor plus the payroll factor, and the denominator of which is two.
5 For the purposes of this paragraph:

6 (A) The property factor is a fraction, the numerator of which is
7 the average value of the taxpayer's real and tangible personal
8 property owned or rented and used in the manufacturing
9 enhancement area during the taxable year, and the denominator
10 of which is the average value of all the taxpayer's real and tangible
11 personal property owned or rented and used in this state during
12 the taxable year.

13 (B) The payroll factor is a fraction, the numerator of which is
14 the total amount paid by the taxpayer in the manufacturing
15 enhancement area during the taxable year for compensation, and
16 the denominator of which is the total compensation paid by the
17 taxpayer in this state during the taxable year.

18 (4) The portion of any credit remaining, if any, after application
19 of this subdivision, shall be carried over to succeeding taxable
20 years, as if it were an amount exceeding the "tax" for the taxable
21 year, as provided in subdivision (g).

22 (h) If the taxpayer is allowed a credit pursuant to this section
23 for qualified wages paid or incurred, only one credit shall be
24 allowed to the taxpayer under this part with respect to any wage
25 consisting in whole or in part of those qualified wages.

26 (i) The qualified taxpayer shall do both of the following:

27 (1) Obtain from the Employment Development Department, as
28 permitted by federal law, the local county or city Job Training
29 Partnership Act administrative entity, the local county GAIN office
30 or social services agency, or the local government administering
31 the manufacturing enhancement area, a certification that provides
32 that a qualified disadvantaged individual meets the eligibility
33 requirements specified in paragraph (5) of subdivision (b). The
34 Employment Development Department may provide preliminary
35 screening and referral to a certifying agency. The Department of
36 Housing and Community Development shall develop regulations
37 governing the issuance of certificates pursuant to subdivision (d)
38 of Section 7086 of the Government Code and shall develop forms
39 for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(j) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (f), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (f) of Section 23036 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.*

(k) *This section shall be repealed as of December 1, 2011.*

SEC. 27. *Section 23633 of the Revenue and Taxation Code is amended to read:*

23633. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed as a credit against the “tax” (as defined by Section 23036) for the taxable year an amount equal to the sales or use tax paid or incurred during the taxable year by the qualified taxpayer in connection with the qualified taxpayer’s purchase of qualified property.

(b) For purposes of this section:

(1) “Qualified property” means property that meets all of the following requirements:

(A) Is any of the following:

(i) Machinery and machinery parts used for fabricating, processing, assembling, and manufacturing.

(ii) Machinery and machinery parts used for the production of renewable energy resources.

(iii) Machinery and machinery parts used for either of the following:

(I) Air pollution control mechanisms.

(II) Water pollution control mechanisms.

(iv) Data-processing and communications equipment, such as computers, computer-automated drafting systems, copy machines, telephone systems, and faxes.

(v) Motion picture manufacturing equipment central to production and post production, such as cameras, audio recorders, and digital image and sound processing equipment.

(B) The total cost of qualified property purchased and placed in service in any taxable year that may be taken into account by

1 any qualified taxpayer for purposes of claiming this credit shall
2 not exceed twenty million dollars (\$20,000,000).

3 (C) The qualified property is used by the qualified taxpayer
4 exclusively in a targeted tax area.

5 (D) The qualified property is purchased and placed in service
6 before the date the targeted tax area designation expires, is revoked,
7 is no longer binding, or becomes inoperative.

8 (2) (A) “Qualified taxpayer” means a corporation that meets
9 both of the following:

10 (i) Is engaged in a trade or business within a targeted tax area
11 designated pursuant to Chapter 12.93 (commencing with Section
12 7097) of Division 7 of Title 1 of the Government Code.

13 (ii) Is engaged in those lines of business described in Codes
14 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
15 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
16 of the Standard Industrial Classification (SIC) Manual published
17 by the United States Office of Management and Budget, 1987
18 edition.

19 (B) In the case of any pass-through entity, the determination of
20 whether a taxpayer is a qualified taxpayer under this section shall
21 be made at the entity level and any credit under this section or
22 Section 17053.33 shall be allowed to the pass-through entity and
23 passed through to the partners or shareholders in accordance with
24 applicable provisions of this part or Part 10 (commencing with
25 Section 17001). For purposes of this subparagraph, the term
26 “pass-through entity” means any partnership or S corporation.

27 (3) “Targeted tax area” means the area designated pursuant to
28 Chapter 12.93 (commencing with Section 7097) of Division 7 of
29 Title 1 of the Government Code.

30 (c) If the qualified taxpayer is allowed a credit for qualified
31 property pursuant to this section, only one credit shall be allowed
32 to the taxpayer under this part with respect to that qualified
33 property.

34 (d) If the qualified taxpayer has purchased property upon which
35 a use tax has been paid or incurred, the credit provided by this
36 section shall be allowed only if qualified property of a comparable
37 quality and price is not timely available for purchase in this state.

38 (e) In the case where the credit otherwise allowed under this
39 section exceeds the “tax” for the taxable year, that portion of the
40 credit that exceeds the “tax” may be carried over and added to the

1 credit, if any, in the following year, and succeeding years if
2 necessary, until the credit is exhausted. The credit shall be applied
3 first to the earliest taxable years possible.

4 (f) Any qualified taxpayer who elects to be subject to this section
5 shall not be entitled to increase the basis of the qualified property
6 as otherwise required by Section 164(a) of the Internal Revenue
7 Code with respect to sales or use tax paid or incurred in connection
8 with the qualified taxpayer's purchase of qualified property.

9 (g) (1) The amount of credit otherwise allowed under this
10 section and Section 23634, including any credit carryover from
11 prior years, that may reduce the "tax" for the taxable year shall
12 not exceed the amount of tax that would be imposed on the
13 qualified taxpayer's business income attributable to the targeted
14 tax area determined as if that attributable income represented all
15 of the income of the qualified taxpayer subject to tax under this
16 part.

17 (2) Attributable income shall be that portion of the taxpayer's
18 California source business income that is apportioned to the
19 targeted tax area. For that purpose, the taxpayer's business income
20 attributable to sources in this state first shall be determined in
21 accordance with Chapter 17 (commencing with Section 25101).
22 That business income shall be further apportioned to the targeted
23 tax area in accordance with Article 2 (commencing with Section
24 25120) of Chapter 17, modified for purposes of this section in
25 accordance with paragraph (3).

26 (3) Business income shall be apportioned to the targeted tax
27 area by multiplying the total California business income of the
28 taxpayer by a fraction, the numerator of which is the property
29 factor plus the payroll factor, and the denominator of which is two.
30 For purposes of this paragraph:

31 (A) The property factor is a fraction, the numerator of which is
32 the average value of the taxpayer's real and tangible personal
33 property owned or rented and used in the targeted tax area during
34 the taxable year and the denominator of which is the average value
35 of all the taxpayer's real and tangible personal property owned or
36 rented and used in this state during the taxable year.

37 (B) The payroll factor is a fraction, the numerator of which is
38 the total amount paid by the taxpayer in the targeted tax area during
39 the taxable year for compensation, and the denominator of which

1 is the total compensation paid by the taxpayer in this state during
2 the taxable year.

3 (4) The portion of any credit remaining, if any, after application
4 of this subdivision, shall be carried over to succeeding taxable
5 years, as if it were an amount exceeding the “tax” for the taxable
6 year, as provided in subdivision (e).

7 (5) In the event that a credit carryover is allowable under
8 subdivision (e) for any taxable year after the targeted tax area
9 designation has expired, has been revoked, is no longer binding,
10 or has become inoperative, the targeted tax area shall be deemed
11 to remain in existence for purposes of computing the limitation
12 specified in this subdivision.

13 (h) The changes made to this section by the act adding this
14 subdivision shall apply to taxable years beginning on or after
15 January 1, 1998.

16 (i) (1) *This section shall cease to be operative for taxable years*
17 *beginning on or after January 1, 2011.*

18 (2) *In the case of any portion of a credit available for carryover*
19 *to a taxable year beginning on or after January 1, 2011, under*
20 *subdivision (e), as that subdivision read prior to the amendments*
21 *made by the act adding this subdivision, neither that subdivision*
22 *nor subdivision (f) of Section 23036 shall apply, and those unused*
23 *credit amounts shall not be carried over to any taxable year*
24 *beginning on or after January 1, 2011.*

25 (j) *This section shall be repealed as of December 1, 2011.*

26 SEC. 28. *Section 23634 of the Revenue and Taxation Code is*
27 *amended to read:*

28 23634. (a) For each taxable year beginning on or after January
29 1, 1998, there shall be allowed a credit against the “tax” (as defined
30 by Section 23036) to a qualified taxpayer who employs a qualified
31 employee in a targeted tax area during the taxable year. The credit
32 shall be equal to the sum of each of the following:

33 (1) Fifty percent of qualified wages in the first year of
34 employment.

35 (2) Forty percent of qualified wages in the second year of
36 employment.

37 (3) Thirty percent of qualified wages in the third year of
38 employment.

39 (4) Twenty percent of qualified wages in the fourth year of
40 employment.

1 (5) Ten percent of qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified employees that does
7 not exceed 150 percent of the minimum wage.

8 (B) Wages received during the 60-month period beginning with
9 the first day the employee commences employment with the
10 qualified taxpayer. Reemployment in connection with any increase,
11 including a regularly occurring seasonal increase, in the trade or
12 business operations of the qualified taxpayer does not constitute
13 commencement of employment for purposes of this section.

14 (C) Qualified wages do not include any wages paid or incurred
15 by the qualified taxpayer on or after the targeted tax area expiration
16 date. However, wages paid or incurred with respect to qualified
17 employees who are employed by the qualified taxpayer within the
18 targeted tax area within the 60-month period prior to the targeted
19 tax area expiration date shall continue to qualify for the credit
20 under this section after the targeted tax area expiration date, in
21 accordance with all provisions of this section applied as if the
22 targeted tax area designation were still in existence and binding.

23 (2) “Minimum wage” means the wage established by the
24 Industrial Welfare Commission as provided for in Chapter 1
25 (commencing with Section 1171) of Part 4 of Division 2 of the
26 Labor Code.

27 (3) “Targeted tax area expiration date” means the date the
28 targeted tax area designation expires, is revoked, is no longer
29 binding, or becomes inoperative.

30 (4) (A) “Qualified employee” means an individual who meets
31 all of the following requirements:

32 (i) At least 90 percent of his or her services for the qualified
33 taxpayer during the taxable year are directly related to the conduct
34 of the qualified taxpayer’s trade or business located in a targeted
35 tax area.

36 (ii) Performs at least 50 percent of his or her services for the
37 qualified taxpayer during the taxable year in a targeted tax area.

38 (iii) Is hired by the qualified taxpayer after the date of original
39 designation of the area in which services were performed as a
40 targeted tax area.

1 (iv) Is any of the following:

2 (I) Immediately preceding the qualified employee's
3 commencement of employment with the qualified taxpayer, was
4 a person eligible for services under the federal Job Training
5 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
6 who is receiving, or is eligible to receive, subsidized employment,
7 training, or services funded by the federal Job Training Partnership
8 Act, or its successor.

9 (II) Immediately preceding the qualified employee's
10 commencement of employment with the qualified taxpayer, was
11 a person eligible to be a voluntary or mandatory registrant under
12 the Greater Avenues for Independence Act of 1985 (GAIN)
13 provided for pursuant to Article 3.2 (commencing with Section
14 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
15 Institutions Code, or its successor.

16 (III) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 an economically disadvantaged individual 14 years of age or older.

19 (IV) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 a dislocated worker who meets any of the following:

22 (aa) Has been terminated or laid off or who has received a notice
23 of termination or layoff from employment, is eligible for or has
24 exhausted entitlement to unemployment insurance benefits, and
25 is unlikely to return to his or her previous industry or occupation.

26 (bb) Has been terminated or has received a notice of termination
27 of employment as a result of any permanent closure or any
28 substantial layoff at a plant, facility, or enterprise, including an
29 individual who has not received written notification but whose
30 employer has made a public announcement of the closure or layoff.

31 (cc) Is long-term unemployed and has limited opportunities for
32 employment or reemployment in the same or a similar occupation
33 in the area in which the individual resides, including an individual
34 55 years of age or older who may have substantial barriers to
35 employment by reason of age.

36 (dd) Was self-employed (including farmers and ranchers) and
37 is unemployed as a result of general economic conditions in the
38 community in which he or she resides or because of natural
39 disasters.

1 (ee) Was a civilian employee of the Department of Defense
2 employed at a military installation being closed or realigned under
3 the Defense Base Closure and Realignment Act of 1990.

4 (ff) Was an active member of the Armed Forces or National
5 Guard as of September 30, 1990, and was either involuntarily
6 separated or separated pursuant to a special benefits program.

7 (gg) Is a seasonal or migrant worker who experiences chronic
8 seasonal unemployment and underemployment in the agriculture
9 industry, aggravated by continual advancements in technology and
10 mechanization.

11 (hh) Has been terminated or laid off, or has received a notice
12 of termination or layoff, as a consequence of compliance with the
13 Clean Air Act.

14 (V) Immediately preceding the qualified employee's
15 commencement of employment with the qualified taxpayer, was
16 a disabled individual who is eligible for or enrolled in, or has
17 completed a state rehabilitation plan or is a service-connected
18 disabled veteran, veteran of the Vietnam era, or veteran who is
19 recently separated from military service.

20 (VI) Immediately preceding the qualified employee's
21 commencement of employment with the qualified taxpayer, was
22 an ex-offender. An individual shall be treated as convicted if he
23 or she was placed on probation by a state court without a finding
24 of guilt.

25 (VII) Immediately preceding the qualified employee's
26 commencement of employment with the qualified taxpayer, was
27 a person eligible for or a recipient of any of the following:

28 (aa) Federal Supplemental Security Income benefits.

29 (bb) Aid to Families with Dependent Children.

30 (cc) Food stamps.

31 (dd) State and local general assistance.

32 (VIII) Immediately preceding the qualified employee's
33 commencement of employment with the qualified taxpayer, was
34 a member of a federally recognized Indian tribe, band, or other
35 group of Native American descent.

36 (IX) Immediately preceding the qualified employee's
37 commencement of employment with the qualified taxpayer, was
38 a resident of a targeted tax area.

39 (X) Immediately preceding the qualified employee's
40 commencement of employment with the taxpayer, was a member

1 of a targeted group, as defined in Section 51(d) of the Internal
2 Revenue Code, or its successor.

3 (B) Priority for employment shall be provided to an individual
4 who is enrolled in a qualified program under the federal Job
5 Training Partnership Act or the Greater Avenues for Independence
6 Act of 1985 or who is eligible as a member of a targeted group
7 under the Work Opportunity Tax Credit (Section 51 of the Internal
8 Revenue Code), or its successor.

9 (5) (A) “Qualified taxpayer” means a person or entity that meets
10 both of the following:

11 (i) Is engaged in a trade or business within a targeted tax area
12 designated pursuant to Chapter 12.93 (commencing with Section
13 7097) of Division 7 of Title 1 of the Government Code.

14 (ii) Is engaged in those lines of business described in Codes
15 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
16 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
17 of the Standard Industrial Classification (SIC) Manual published
18 by the United States Office of Management and Budget, 1987
19 edition.

20 (B) In the case of any passthrough entity, the determination of
21 whether a taxpayer is a qualified taxpayer under this section shall
22 be made at the entity level and any credit under this section or
23 Section 17053.34 shall be allowed to the passthrough entity and
24 passed through to the partners or shareholders in accordance with
25 applicable provisions of this part or Part 10 (commencing with
26 Section 17001). For purposes of this subparagraph, the term
27 “passthrough entity” means any partnership or S corporation.

28 (6) “Seasonal employment” means employment by a qualified
29 taxpayer that has regular and predictable substantial reductions in
30 trade or business operations.

31 (c) If the qualified taxpayer is allowed a credit for qualified
32 wages pursuant to this section, only one credit shall be allowed to
33 the taxpayer under this part with respect to those qualified wages.

34 (d) The qualified taxpayer shall do both of the following:

35 (1) Obtain from the Employment Development Department, as
36 permitted by federal law, the local county or city Job Training
37 Partnership Act administrative entity, the local county GAIN office
38 or social services agency, or the local government administering
39 the targeted tax area, a certification that provides that a qualified
40 employee meets the eligibility requirements specified in clause

(iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations for the issuance of certificates pursuant to ~~subdivision (g) of~~ Section 7097 of the Government Code, and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, “controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of

1 the 270th calendar day after the day in which that employee
2 completes 90 days of employment with the qualified taxpayer, the
3 tax imposed by this part for the taxable year in which that
4 employment is terminated shall be increased by an amount equal
5 to the credit allowed under subdivision (a) for that taxable year
6 and all prior taxable years attributable to qualified wages paid or
7 incurred with respect to that employee.

8 (B) If the seasonal employment of any qualified employee, with
9 respect to whom qualified wages are taken into account under
10 subdivision (a) is not continued by the qualified taxpayer for a
11 period of 270 days of employment during the 60-month period
12 beginning with the day the qualified employee commences seasonal
13 employment with the qualified taxpayer, the tax imposed by this
14 part, for the taxable year that includes the 60th month following
15 the month in which the qualified employee commences seasonal
16 employment with the qualified taxpayer, shall be increased by an
17 amount equal to the credit allowed under subdivision (a) for that
18 taxable year and all prior taxable years attributable to qualified
19 wages paid or incurred with respect to that qualified employee.

20 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
21 any of the following:

22 (i) A termination of employment of a qualified employee who
23 voluntarily leaves the employment of the qualified taxpayer.

24 (ii) A termination of employment of a qualified employee who,
25 before the close of the period referred to in subparagraph (A) of
26 paragraph (1), becomes disabled and unable to perform the services
27 of that employment, unless that disability is removed before the
28 close of that period and the qualified taxpayer fails to offer
29 reemployment to that employee.

30 (iii) A termination of employment of a qualified employee, if
31 it is determined that the termination was due to the misconduct (as
32 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
33 the California Code of Regulations) of that employee.

34 (iv) A termination of employment of a qualified employee due
35 to a substantial reduction in the trade or business operations of the
36 taxpayer.

37 (v) A termination of employment of a qualified employee, if
38 that employee is replaced by other qualified employees so as to
39 create a net increase in both the number of employees and the
40 hours of employment.

1 (B) Subparagraph (B) of paragraph (1) shall not apply to any
2 of the following:

3 (i) A failure to continue the seasonal employment of a qualified
4 employee who voluntarily fails to return to the seasonal
5 employment of the qualified taxpayer.

6 (ii) A failure to continue the seasonal employment of a qualified
7 employee who, before the close of the period referred to in
8 subparagraph (B) of paragraph (1), becomes disabled and unable
9 to perform the services of that seasonal employment, unless that
10 disability is removed before the close of that period and the
11 qualified taxpayer fails to offer seasonal employment to that
12 qualified employee.

13 (iii) A failure to continue the seasonal employment of a qualified
14 employee, if it is determined that the failure to continue the
15 seasonal employment was due to the misconduct (as defined in
16 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
17 Code of Regulations) of that qualified employee.

18 (iv) A failure to continue seasonal employment of a qualified
19 employee due to a substantial reduction in the regular seasonal
20 trade or business operations of the qualified taxpayer.

21 (v) A failure to continue the seasonal employment of a qualified
22 employee, if that qualified employee is replaced by other qualified
23 employees so as to create a net increase in both the number of
24 seasonal employees and the hours of seasonal employment.

25 (C) For purposes of paragraph (1), the employment relationship
26 between the qualified taxpayer and a qualified employee shall not
27 be treated as terminated by either of the following:

28 (i) By a transaction to which Section 381(a) of the Internal
29 Revenue Code applies, if the qualified employee continues to be
30 employed by the acquiring corporation.

31 (ii) By reason of a mere change in the form of conducting the
32 trade or business of the qualified taxpayer, if the qualified
33 employee continues to be employed in that trade or business and
34 the qualified taxpayer retains a substantial interest in that trade or
35 business.

36 (3) Any increase in tax under paragraph (1) shall not be treated
37 as tax imposed by this part for purposes of determining the amount
38 of any credit allowable under this part.

39 (g) Rules similar to the rules provided in Sections 46(e) and (h)
40 of the Internal Revenue Code shall apply to both of the following:

1 (1) An organization to which Section 593 of the Internal
2 Revenue Code applies.

3 (2) A regulated investment company or a real estate investment
4 trust subject to taxation under this part.

5 (h) For purposes of this section, “targeted tax area” means an
6 area designated pursuant to Chapter 12.93 (commencing with
7 Section 7097) of Division 7 of Title 1 of the Government Code.

8 (i) In the case where the credit otherwise allowed under this
9 section exceeds the “tax” for the taxable year, that portion of the
10 credit that exceeds the “tax” may be carried over and added to the
11 credit, if any, in succeeding taxable years, until the credit is
12 exhausted. The credit shall be applied first to the earliest taxable
13 years possible.

14 (j) (1) The amount of the credit otherwise allowed under this
15 section and Section 23633, including any credit carryover from
16 prior years, that may reduce the “tax” for the taxable year shall
17 not exceed the amount of tax that would be imposed on the
18 qualified taxpayer’s business income attributable to the targeted
19 tax area determined as if that attributable income represented all
20 of the income of the qualified taxpayer subject to tax under this
21 part.

22 (2) Attributable income shall be that portion of the taxpayer’s
23 California source business income that is apportioned to the
24 targeted tax area. For that purpose, the taxpayer’s business income
25 attributable to sources in this state first shall be determined in
26 accordance with Chapter 17 (commencing with Section 25101).
27 That business income shall be further apportioned to the targeted
28 tax area in accordance with Article 2 (commencing with Section
29 25120) of Chapter 17, modified for purposes of this section in
30 accordance with paragraph (3).

31 (3) Business income shall be apportioned to the targeted tax
32 area by multiplying the total California business income of the
33 taxpayer by a fraction, the numerator of which is the property
34 factor plus the payroll factor, and the denominator of which is two.
35 For purposes of this paragraph:

36 (A) The property factor is a fraction, the numerator of which is
37 the average value of the taxpayer’s real and tangible personal
38 property owned or rented and used in the targeted tax area during
39 the taxable year, and the denominator of which is the average value

1 of all the taxpayer's real and tangible personal property owned or
2 rented and used in this state during the taxable year.

3 (B) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the targeted tax area during
5 the taxable year for compensation, and the denominator of which
6 is the total compensation paid by the taxpayer in this state during
7 the taxable year.

8 (4) The portion of any credit remaining, if any, after application
9 of this subdivision, shall be carried over to succeeding taxable
10 years, as if it were an amount exceeding the "tax" for the taxable
11 year, as provided in subdivision (h).

12 (5) In the event that a credit carryover is allowable under
13 subdivision (h) for any taxable year after the targeted tax area
14 designation has expired or been revoked, the targeted tax area shall
15 be deemed to remain in existence for purposes of computing the
16 limitation specified in this subdivision.

17 (k) (1) *This section shall cease to be operative for taxable years*
18 *beginning on or after January 1, 2011.*

19 (2) *In the case of any portion of a credit available for carryover*
20 *to a taxable year beginning on or after January 1, 2011, under*
21 *subdivision (i), as that subdivision read prior to the amendments*
22 *made by the act adding this subdivision, neither that subdivision*
23 *nor subdivision (f) of Section 23036 shall apply, and those unused*
24 *credit amounts shall not be carried over to any taxable year*
25 *beginning on or after January 1, 2011.*

26 (l) *This section shall be repealed as of December 1, 2011.*

27 SEC. 29. *Section 23645 of the Revenue and Taxation Code is*
28 *amended to read:*

29 23645. (a) For each taxable year beginning on or after January
30 1, 1995, there shall be allowed as a credit against the "tax" (as
31 defined by Section 23036) for the taxable year an amount equal
32 to the sales or use tax paid or incurred by the taxpayer in
33 connection with the purchase of qualified property to the extent
34 that the qualified property does not exceed a value of twenty
35 million dollars (\$20,000,000).

36 (b) For purposes of this section:

37 (1) "LAMBRA" means a local agency military base recovery
38 area designated in accordance with Section 7114 of the Government
39 Code.

(2) “Taxpayer” means a corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees that are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(3) “Qualified property” means property that is each of the following:

(A) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(B) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(C) Any of the following:

1 (i) High technology equipment, including, but not limited to,
2 computers and electronic processing equipment.

3 (ii) Aircraft maintenance equipment, including, but not limited
4 to, engine stands, hydraulic mules, power carts, test equipment,
5 handtools, aircraft start carts, and tugs.

6 (iii) Aircraft components, including, but not limited to, engines,
7 fuel control units, hydraulic pumps, avionics, starts, wheels, and
8 tires.

9 (iv) Section 1245 property, as defined in Section 1245(a)(3) of
10 the Internal Revenue Code.

11 (c) The credit provided under subdivision (a) shall only be
12 allowed for qualified property manufactured in California unless
13 qualified property of a comparable quality and price is not available
14 for timely purchase and delivery from a California manufacturer.

15 (d) In the case where the credit otherwise allowed under this
16 section exceeds the “tax” for the taxable year, that portion of the
17 credit which exceeds the “tax” may be carried over and added to
18 the credit, if any, in succeeding years, until the credit is exhausted.
19 The credit shall be applied first to the earliest taxable years
20 possible.

21 (e) Any taxpayer who elects to be subject to this section shall
22 not be entitled to increase the basis of the property as otherwise
23 required by Section 164(a) of the Internal Revenue Code with
24 respect to sales or use tax paid or incurred in connection with the
25 purchase of qualified property.

26 (f) (1) The amount of the credit otherwise allowed under this
27 section and Section 23646, including any credit carryovers from
28 prior years, that may reduce the “tax” for the taxable year shall
29 not exceed the amount of tax that would be imposed on the
30 taxpayer’s business income attributed to a LAMBRA determined
31 as if that attributable income represented all the income of the
32 taxpayer subject to tax under this part.

33 (2) Attributable income shall be that portion of the taxpayer’s
34 California source business income that is apportioned to the
35 LAMBRA. For that purpose, the taxpayer’s business income that
36 is attributable to sources in this state shall first be determined in
37 accordance with Chapter 17 (commencing with Section 25101).
38 That business income shall be further apportioned to the LAMBRA
39 in accordance with Article 2 (commencing with Section 25120)

1 of Chapter 17, modified for purposes of this section in accordance
2 with paragraph (3).

3 (3) Income shall be apportioned to a LAMBRA by multiplying
4 the total California business income of the taxpayer by a fraction,
5 the numerator of which is the property factor, plus the payroll
6 factor, and the denominator of which is two. For purposes of this
7 paragraph:

8 (A) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the LAMBRA during the
11 taxable year, and the denominator of which is the average value
12 of all the taxpayer's real and tangible personal property owned or
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the LAMBRA during the
16 taxable year for compensation, and the denominator of which is
17 the total compensation paid by the taxpayer in this state during the
18 taxable year.

19 (4) The portion of any credit remaining, if any, after application
20 of this subdivision, shall be carried over to succeeding taxable
21 years, as if it were an amount exceeding the "tax" for the taxable
22 year, as provided in subdivision (d).

23 (g) (1) If the qualified property is disposed of or no longer used
24 by the taxpayer in the LAMBRA, at any time before the close of
25 the second taxable year after the property is placed in service, the
26 amount of the credit previously claimed, with respect to that
27 property, shall be added to the taxpayer's tax liability in the taxable
28 year of that disposition or nonuse.

29 (2) At the close of the second taxable year, if the taxpayer has
30 not increased the number of its employees as determined by
31 paragraph (2) of subdivision (b), then the amount of the credit
32 previously claimed shall be added to the taxpayer's tax for the
33 taxpayer's second taxable year.

34 (h) If the taxpayer is allowed a credit for qualified property
35 pursuant to this section, only one credit shall be allowed to the
36 taxpayer under this part with respect to that qualified property.

37 (i) The amendments made to this section by the act adding this
38 subdivision shall apply to taxable years beginning on or after
39 January 1, 1998.

1 (j) (1) *This section shall cease to be operative for taxable years*
2 *beginning on or after January 1, 2011.*

3 (2) *In the case of any portion of a credit available for carryover*
4 *to a taxable year beginning on or after January 1, 2011, under*
5 *subdivision (d), as that subdivision read prior to the amendments*
6 *made by the act adding this subdivision, neither that subdivision*
7 *nor subdivision (f) of Section 23036 shall apply, and those unused*
8 *credit amounts shall not be carried over to any taxable year*
9 *beginning on or after January 1, 2011.*

10 (k) *This section shall be repealed as of December 1, 2011.*

11 SEC. 30. *Section 23646 of the Revenue and Taxation Code is*
12 *amended to read:*

13 23646. (a) For each taxable year beginning on or after January
14 1, 1995, there shall be allowed as a credit against the “tax” (as
15 defined in Section 23036) to a qualified taxpayer for hiring a
16 qualified disadvantaged individual or a qualified displaced
17 employee during the taxable year for employment in the LAMBRA.
18 The credit shall be equal to the sum of each of the following:

19 (1) Fifty percent of the qualified wages in the first year of
20 employment.

21 (2) Forty percent of the qualified wages in the second year of
22 employment.

23 (3) Thirty percent of the qualified wages in the third year of
24 employment.

25 (4) Twenty percent of the qualified wages in the fourth year of
26 employment.

27 (5) Ten percent of the qualified wages in the fifth year of
28 employment.

29 (b) For purposes of this section:

30 (1) “Qualified wages” means:

31 (A) That portion of wages paid or incurred by the employer
32 during the taxable year to qualified disadvantaged individuals or
33 qualified displaced employees that does not exceed 150 percent
34 of the minimum wage.

35 (B) The total amount of qualified wages which may be taken
36 into account for purposes of claiming the credit allowed under this
37 section shall not exceed two million dollars (\$2,000,000) per
38 taxable year.

39 (C) Wages received during the 60-month period beginning with
40 the first day the individual commences employment with the

1 taxpayer. Reemployment in connection with any increase, including
2 a regularly occurring seasonal increase, in the trade or business
3 operation of the qualified taxpayer does not constitute
4 commencement of employment for purposes of this section.

5 (D) Qualified wages do not include any wages paid or incurred
6 by the qualified taxpayer on or after the LAMBRA expiration date.
7 However, wages paid or incurred with respect to qualified
8 disadvantaged individuals or qualified displaced employees who
9 are employed by the qualified taxpayer within the LAMBRA within
10 the 60-month period prior to the LAMBRA expiration date shall
11 continue to qualify for the credit under this section after the
12 LAMBRA expiration date, in accordance with all provisions of
13 this section applied as if the LAMBRA designation were still in
14 existence and binding.

15 (2) “Minimum wage” means the wage established by the
16 Industrial Welfare Commission as provided for in Chapter 1
17 (commencing with Section 1171) of Part 4 of Division 2 of the
18 Labor Code.

19 (3) “LAMBRA” means a local agency military base recovery
20 area designated in accordance with the provisions of Section 7114
21 of the Government Code.

22 (4) “Qualified disadvantaged individual” means an individual
23 who satisfies all of the following requirements:

24 (A) (i) At least 90 percent of whose services for the taxpayer
25 during the taxable year are directly related to the conduct of the
26 taxpayer’s trade or business located in a LAMBRA.

27 (ii) Who performs at least 50 percent of his or her services for
28 the taxpayer during the taxable year in the LAMBRA.

29 (B) Who is hired by the employer after the designation of the
30 area as a LAMBRA in which the individual’s services were
31 primarily performed.

32 (C) Who is any of the following immediately preceding the
33 individual’s commencement of employment with the taxpayer:

34 (i) An individual who has been determined eligible for services
35 under the federal Job Training Partnership Act (29 U.S.C. Sec.
36 1501 et seq.), or its successor.

37 (ii) Any voluntary or mandatory registrant under the Greater
38 Avenues for Independence Act of 1985 provided for pursuant to
39 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part
40 3 of Division 9 of the Welfare and Institutions Code.

1 (iii) An economically disadvantaged individual age 16 years or
2 older.

3 (iv) A dislocated worker who meets any of the following
4 conditions:

5 (I) Has been terminated or laid off or who has received a notice
6 of termination or layoff from employment, is eligible for or has
7 exhausted entitlement to unemployment insurance benefits, and
8 is unlikely to return to his or her previous industry or occupation.

9 (II) Has been terminated or has received a notice of termination
10 of employment as a result of any permanent closure or any
11 substantial layoff at a plant, facility, or enterprise, including an
12 individual who has not received written notification but whose
13 employer has made a public announcement of the closure or layoff.

14 (III) Is long-term unemployed and has limited opportunities for
15 employment or reemployment in the same or a similar occupation
16 in the area in which the individual resides, including an individual
17 55 years of age or older who may have substantial barriers to
18 employment by reason of age.

19 (IV) Was self-employed (including farmers and ranchers) and
20 is unemployed as a result of general economic conditions in the
21 community in which he or she resides or because of natural
22 disasters.

23 (V) Was a civilian employee of the Department of Defense
24 employed at a military installation being closed or realigned under
25 the Defense Base Closure and Realignment Act of 1990.

26 (VI) Was an active member of the Armed Forces or National
27 Guard as of September 30, 1990, and was either involuntarily
28 separated or separated pursuant to a special benefits program.

29 (VII) Experiences chronic seasonal unemployment and
30 underemployment in the agriculture industry, aggravated by
31 continual advancements in technology and mechanization.

32 (VIII) Has been terminated or laid off or has received a notice
33 of termination or layoff as a consequence of compliance with the
34 Clean Air Act.

35 (v) An individual who is enrolled in or has completed a state
36 rehabilitation plan or is a service-connected disabled veteran,
37 veteran of the Vietnam era, or veteran who is recently separated
38 from military service.

1 (vi) An ex-offender. An individual shall be treated as convicted
2 if he or she was placed on probation by a state court without a
3 finding of guilty.

4 (vii) A recipient of:

5 (I) Federal Supplemental Security Income benefits.

6 (II) Aid to Families with Dependent Children.

7 (III) Food stamps.

8 (IV) State and local general assistance.

9 (viii) Is a member of a federally recognized Indian tribe, band,
10 or other group of Native American descent.

11 (5) “Qualified taxpayer” means a corporation that conducts a
12 trade or business within a LAMBRA and, for the first two taxable
13 years, has a net increase in jobs (defined as 2,000 paid hours per
14 employee per year) of one or more employees as determined below
15 in the LAMBRA.

16 (A) The net increase in the number of jobs shall be determined
17 by subtracting the total number of full-time employees (defined
18 as 2,000 paid hours per employee per year) the taxpayer employed
19 in this state in the taxable year prior to commencing business
20 operations in the LAMBRA from the total number of full-time
21 employees the taxpayer employed in this state during the second
22 taxable year after commencing business operations in the
23 LAMBRA. For taxpayers who commence doing business in this
24 state with their LAMBRA business operation, the number of
25 employees for the taxable year prior to commencing business
26 operations in the LAMBRA shall be zero. If the taxpayer has a net
27 increase in jobs in the state, the credit shall be allowed only if one
28 or more full-time employees is employed within the LAMBRA.

29 (B) The total number of employees employed in the LAMBRA
30 shall equal the sum of both of the following:

31 (i) The total number of hours worked in the LAMBRA for the
32 taxpayer by employees (not to exceed 2,000 hours per employee)
33 who are paid an hourly wage divided by 2,000.

34 (ii) The total number of months worked in the LAMBRA for
35 the taxpayer by employees who are salaried employees divided
36 by 12.

37 (C) In the case of a qualified taxpayer that first commences
38 doing business in the LAMBRA during the taxable year, for
39 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
40 the divisors “2,000” and “12” shall be multiplied by a fraction, the

1 numerator of which is the number of months of the taxable year
2 that the taxpayer was doing business in the LAMBRA and the
3 denominator of which is 12.

4 (6) “Qualified displaced employee” means an individual who
5 satisfies all of the following requirements:

6 (A) Any civilian or military employee of a base or former base
7 that has been displaced as a result of a federal base closure act.

8 (B) (i) At least 90 percent of whose services for the taxpayer
9 during the taxable year are directly related to the conduct of the
10 taxpayer’s trade or business located in a LAMBRA.

11 (ii) Who performs at least 50 percent of his or her services for
12 the taxpayer during the taxable year in a LAMBRA.

13 (C) Who is hired by the employer after the designation of the
14 area in which services were performed as a LAMBRA.

15 (7) “Seasonal employment” means employment by a qualified
16 taxpayer that has regular and predictable substantial reductions in
17 trade or business operations.

18 (8) “LAMBRA expiration date” means the date the LAMBRA
19 designation expires, is no longer binding, or becomes inoperative.

20 (c) For qualified disadvantaged individuals or qualified displaced
21 employees hired on or after January 1, 2001, the taxpayer shall do
22 both of the following:

23 (1) Obtain from the Employment Development Department, as
24 permitted by federal law, the administrative entity of the local
25 county or city for the federal Job Training Partnership Act, or its
26 successor, the local county GAIN office or social services agency,
27 or the local government administering the LAMBRA, a
28 certification that provides that a qualified disadvantaged individual
29 or qualified displaced employee meets the eligibility requirements
30 specified in subparagraph (C) of paragraph (4) of subdivision (b)
31 or subparagraph (A) of paragraph (6) of subdivision (b). The
32 Employment Development Department may provide preliminary
33 screening and referral to a certifying agency. The Department of
34 Housing and Community Development shall develop regulations
35 governing the issuance of certificates pursuant to Section 7114.2
36 of the Government Code and shall develop forms for this purpose.

37 (2) Retain a copy of the certification and provide it upon request
38 to the Franchise Tax Board.

39 (d) (1) For purposes of this section, both of the following apply:

1 (A) All employees of all corporations that are members of the
2 same controlled group of corporations shall be treated as employed
3 by a single employer.

4 (B) The credit (if any) allowable by this section to each member
5 shall be determined by reference to its proportionate share of the
6 qualified wages giving rise to the credit.

7 (2) For purposes of this subdivision, “controlled group of
8 corporations” has the meaning given to that term by Section
9 1563(a) of the Internal Revenue Code, except that both of the
10 following apply:

11 (A) “More than 50 percent” shall be substituted for “at least 80
12 percent” each place it appears in Section 1563(a)(1) of the Internal
13 Revenue Code.

14 (B) The determination shall be made without regard to Section
15 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
16 Code.

17 (3) If an employer acquires the major portion of a trade or
18 business of another employer (hereinafter in this paragraph referred
19 to as the “predecessor”) or the major portion of a separate unit of
20 a trade or business of a predecessor, then, for purposes of applying
21 this section (other than subdivision (e)) for any calendar year
22 ending after that acquisition, the employment relationship between
23 an employee and an employer shall not be treated as terminated if
24 the employee continues to be employed in that trade or business.

25 (e) (1) (A) If the employment of any employee, other than
26 seasonal employment, with respect to whom qualified wages are
27 taken into account under subdivision (a) is terminated by the
28 taxpayer at any time during the first 270 days of that employment
29 (whether or not consecutive) or before the close of the 270th
30 calendar day after the day in which that employee completes 90
31 days of employment with the taxpayer, the tax imposed by this
32 part for the taxable year in which that employment is terminated
33 shall be increased by an amount equal to the credit allowed under
34 subdivision (a) for that taxable year and all prior income years
35 attributable to qualified wages paid or incurred with respect to that
36 employee.

37 (B) If the seasonal employment of any qualified disadvantaged
38 individual, with respect to whom qualified wages are taken into
39 account under subdivision (a) is not continued by the qualified
40 taxpayer for a period of 270 days of employment during the

60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period

1 and the qualified taxpayer fails to offer seasonal employment to
2 that qualified disadvantaged individual.

3 (iii) A failure to continue the seasonal employment of a qualified
4 disadvantaged individual, if it is determined that the failure to
5 continue the seasonal employment was due to the misconduct (as
6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
7 the California Code of Regulations) of that individual.

8 (iv) A failure to continue seasonal employment of a qualified
9 disadvantaged individual due to a substantial reduction in the
10 regular seasonal trade or business operations of the qualified
11 taxpayer.

12 (v) A failure to continue the seasonal employment of a qualified
13 disadvantaged individual, if that individual is replaced by other
14 qualified disadvantaged individuals so as to create a net increase
15 in both the number of seasonal employees and the hours of seasonal
16 employment.

17 (C) For purposes of paragraph (1), the employment relationship
18 between the taxpayer and an employee shall not be treated as
19 terminated by either of the following:

20 (i) A transaction to which Section 381(a) of the Internal Revenue
21 Code applies, if the employee continues to be employed by the
22 acquiring corporation.

23 (ii) A mere change in the form of conducting the trade or
24 business of the taxpayer, if the employee continues to be employed
25 in that trade or business and the taxpayer retains a substantial
26 interest in that trade or business.

27 (3) Any increase in tax under paragraph (1) shall not be treated
28 as tax imposed by this part for purposes of determining the amount
29 of any credit allowable under this part.

30 (4) At the close of the second taxable year, if the taxpayer has
31 not increased the number of its employees as determined by
32 paragraph (5) of subdivision (b), then the amount of the credit
33 previously claimed shall be added to the taxpayer's tax for the
34 taxpayer's second taxable year.

35 (f) In the case of an organization to which Section 593 of the
36 Internal Revenue Code applies, and a regulated investment
37 company or a real estate investment trust subject to taxation under
38 this part, rules similar to the rules provided in Section 46(e) and
39 Section 46(h) of the Internal Revenue Code shall apply.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer’s business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) This section shall cease to be operative for taxable years beginning on or after January 1, 2011.

(2) In the case of any portion of a credit available for carryover to a taxable year beginning on or after January 1, 2011, under subdivision (h), as that subdivision read prior to the amendments made by the act adding this subdivision, neither that subdivision nor subdivision (f) of Section 23036 shall apply, and those unused credit amounts shall not be carried over to any taxable year beginning on or after January 1, 2011.

(l) This section shall be repealed as of December 1, 2011.

SEC. 31. Section 24356.6 of the Revenue and Taxation Code is amended to read:

24356.6. (a) For each taxable year beginning on or after January 1, 1998, a qualified taxpayer may elect to treat 40 percent of the cost of any Section 24356.6 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified taxpayer places the Section 24356.6 property in service.

(b) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 24356.6 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the qualified taxpayer’s original return of the tax imposed by this part for the taxable year.

1 (2) Any election made under this section, and any specification
2 contained in that election, may not be revoked except with the
3 consent of the Franchise Tax Board.

4 (c) (1) For purposes of this section, “Section 24356.6 property”
5 means any recovery property that is:

6 (A) Section 1245 property (as defined in Section 1245 (a)(3) of
7 the Internal Revenue Code).

8 (B) Purchased and placed in service by the qualified taxpayer
9 for exclusive use in a trade or business conducted within a targeted
10 tax area designated pursuant to Chapter 12.93 (commencing with
11 Section 7097) of Division 7 of Title 1 of the Government Code.

12 (C) Purchased and placed in service before the date the targeted
13 tax area designation expires, is revoked, is no longer binding, or
14 becomes inoperative.

15 (2) For purposes of paragraph (1), “purchase” means any
16 acquisition of property, but only if all of the following apply:

17 (A) The property is not acquired from a person whose
18 relationship to the person acquiring it would result in the
19 disallowance of losses under Section 267 or 707(b) of the Internal
20 Revenue Code. However, in applying Sections 267(b) and 267(c)
21 for purposes of this section, Section 267(c)(4) shall be treated as
22 providing that the family of an individual shall include only the
23 individual’s spouse, ancestors, and lineal descendants.

24 (B) The property is not acquired by one member of an affiliated
25 group from another member of the same affiliated group.

26 (C) The basis of the property in the hands of the person acquiring
27 it is not determined in whole or in part by reference to the adjusted
28 basis of that property in the hands of the person from who it is
29 acquired.

30 (3) For purposes of this section, the cost of property does not
31 include that portion of the basis of that property that is determined
32 by reference to the basis of other property held at any time by the
33 person acquiring that property.

34 (4) This section shall not apply to any property for which the
35 qualified taxpayer may not make an election under Section 179 of
36 the Internal Revenue Code because of the application of the
37 provisions of Section 179(d) of the Internal Revenue Code.

38 (5) For purposes of subdivision (b), both of the following apply:

39 (A) All members of an affiliated group shall be treated as one
40 qualified taxpayer.

1 (B) The qualified taxpayer shall apportion the dollar limitation
2 contained in subdivision (f) among the members of the affiliated
3 group in whatever manner the board shall prescribe.

4 (6) For purposes of paragraphs (2) and (5), “affiliated group”
5 means “affiliated group” as defined in Section 1504 of the Internal
6 Revenue Code, except that, for these purposes, the phrase “more
7 than 50 percent” shall be substituted for the phrase “at least 80
8 percent” each place it appears in Section 1504(a) of the Internal
9 Revenue Code.

10 (d) (1) For purposes of this section, “qualified taxpayer” means
11 a corporation that meets both of the following:

12 (A) Is engaged in conducting a trade or business within a
13 targeted tax area designated pursuant to Chapter 12.93
14 (commencing with Section 7097) of Division 7 of Title 1 of the
15 Government Code.

16 (B) Is engaged in those lines of business described in Codes
17 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
18 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
19 of the Standard Industrial Classification (SIC) Manual published
20 by the United States Office of Management and Budget, 1987
21 edition.

22 (2) In the case of any pass-through entity, the determination of
23 whether a taxpayer is a qualified taxpayer under this section shall
24 be made at the entity level and any deduction under this section
25 or Section 17267.6 shall be allowed to the pass-through entity and
26 passed through to the partners or shareholders in accordance with
27 applicable provisions of this part or Part 10 (commencing with
28 Section 17001). For purposes of this subparagraph, the term
29 “pass-through entity” means any partnership or S corporation.

30 (e) Any qualified taxpayer who elects to be subject to this
31 section shall not be entitled to claim additional depreciation
32 pursuant to Section 24356 with respect to any property that
33 constitutes Section 24356.6 property. However, the qualified
34 taxpayer may claim depreciation by any method permitted by
35 Section 24349 commencing with the taxable year following the
36 taxable year in which Section 24356.6 property is placed in service.

37 (f) The aggregate cost of all Section 24356.6 property that may
38 be taken into account under subdivision (a) for any taxable year
39 shall not exceed the following applicable amount for the taxable

year of the designation of the relevant targeted tax area and taxable years thereafter:

	The applicable
	amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.6 property that ceases to be used in the qualified taxpayer's trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(h) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 32. *Section 24356.7 of the Revenue and Taxation Code is amended to read:*

24356.7. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 24356.7 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 24356.7 property in service.

(b) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 24356.7 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.7 property" means any recovery property that is:

1 (A) Section 1245 property (as defined in Section 1245(a)(3) of
2 the Internal Revenue Code).

3 (B) Purchased and placed in service by the taxpayer for
4 exclusive use in a trade or business conducted within an enterprise
5 zone designated pursuant to Chapter 12.8 (commencing with
6 Section 7070) of Division 7 of Title 1 of the Government Code.

7 (C) Purchased and placed in service before the date the
8 enterprise zone designation expires, is no longer binding, or
9 becomes inoperative.

10 (2) For purposes of paragraph (1), “purchase” means any
11 acquisition of property, but only if all of the following apply:

12 (A) The property is not acquired from a person whose
13 relationship to the person acquiring it would result in the
14 disallowance of losses under Sections 24427 through 24429.
15 However, in applying Sections 24428 and 24429 for purposes of
16 this section, subdivision (d) of Section 24429 shall be treated as
17 providing that the family of an individual shall include only his or
18 her spouse, ancestors, and lineal descendants.

19 (B) The property is not acquired by one member of an affiliated
20 group from another member of the same affiliated group.

21 (C) The basis of the property in the hands of the person acquiring
22 it is not determined in whole or in part by reference to the adjusted
23 basis of that property in the hands of the person from whom it is
24 acquired.

25 (3) For purposes of this section, the cost of property does not
26 include that portion of the basis of that property that is determined
27 by reference to the basis of other property held at any time by the
28 person acquiring that property.

29 (4) This section shall not apply to any property for which the
30 taxpayer could not make a federal election under Section 179 of
31 the Internal Revenue Code because of the application of the
32 provisions of Section 179(d) of the Internal Revenue Code.

33 (5) For purposes of subdivision (b) of this section, both of the
34 following apply:

35 (A) All members of an affiliated group shall be treated as one
36 taxpayer.

37 (B) The taxpayer shall apportion the dollar limitation contained
38 in subdivision (f) among the members of the affiliated group in
39 whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), “affiliated group” means “affiliated group” as defined in Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, “taxpayer” means a bank or corporation that conducts a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.7 property. However, the taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the taxable year following the taxable year in which Section 24356.7 property is placed in service.

(f) The aggregate cost of all Section 24356.7 property that may be taken into account under subdivision (a) for any taxable years shall not exceed the following applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.7 property that ceases to be used in the taxpayer’s trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(h) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

1 *SEC. 33. Section 24356.8 of the Revenue and Taxation Code*
2 *is amended to read:*

3 24356.8. (a) For each taxable year beginning on or after
4 January 1, 1995, a taxpayer may elect to treat 40 percent of the
5 cost of any Section 24356.8 property as an expense that is not
6 chargeable to the capital account. Any cost so treated shall be
7 allowed as a deduction for the taxable year in which the taxpayer
8 places the Section 24356.8 property in service.

9 (b) (1) An election under this section for any taxable year shall
10 meet both of the following requirements:

11 (A) Specify the items of Section 24356.8 property to which the
12 election applies and the portion of the cost of each of those items
13 that is to be taken into account under subdivision (a).

14 (B) Be made on the taxpayer's return of the tax imposed by this
15 part for the taxable year.

16 (2) Any election made under this section, and any specification
17 contained in that election, may not be revoked except with the
18 consent of the Franchise Tax Board.

19 (c) (1) For purposes of this section, "Section 24356.8 property"
20 means any recovery property that is:

21 (A) Section 1245 property (as defined in Section 1245(a)(3) of
22 the Internal Revenue Code).

23 (B) Purchased by the taxpayer for exclusive use in a trade or
24 business conducted within a LAMBRA.

25 (C) Purchased before the date the LAMBRA designation expires,
26 is no longer binding, or becomes inoperative.

27 (2) For purposes of paragraph (1), "purchase" means any
28 acquisition of property, but only if all of the following apply:

29 (A) The property is not acquired from a person whose
30 relationship to the person acquiring it would result in the
31 disallowance of losses under Section 267 or 707(b) of the Internal
32 Revenue Code (but, in applying Sections 267(b) and 267(c) of the
33 Internal Revenue Code for purposes of this section, Section
34 267(c)(4) of the Internal Revenue Code shall be treated as
35 providing that the family of an individual shall include only his or
36 her spouse, ancestors, and lineal descendants).

37 (B) The property is not acquired by one component member of
38 an affiliated group from another component member of the same
39 affiliated group.

1 (C) The basis of the property in the hands of the person acquiring
2 it is not determined in whole or in part by reference to the adjusted
3 basis of that property in the hands of the person from whom
4 acquired.

5 (3) For purposes of this section, the cost of property does not
6 include so much of the basis of that property as is determined by
7 reference to the basis of other property held at any time by the
8 person acquiring that property.

9 (4) This section shall not apply to any property for which the
10 taxpayer may not make an election for the taxable year under
11 Section 179 of the Internal Revenue Code because of the provisions
12 of Section 179(d) of the Internal Revenue Code.

13 (5) For purposes of subdivision (b), both of the following apply:

14 (A) All members of an affiliated group shall be treated as one
15 taxpayer.

16 (B) The taxpayer shall apportion the dollar limitation contained
17 in subdivision (f) among the component members of the affiliated
18 group in whatever manner the board shall by regulations prescribe.

19 (6) For purposes of paragraphs (2) and (5), “affiliated group”
20 has the meaning assigned to it by Section 1504 of the Internal
21 Revenue Code, except that, for these purposes, the phrase “more
22 than 50 percent” shall be substituted for the phrase “at least 80
23 percent” each place it appears in Section 1504(a) of the Internal
24 Revenue Code.

25 (7) This section shall not apply to any property described in
26 Section 168(f) of the Internal Revenue Code.

27 (8) In the case of an S corporation, the dollar limitation
28 contained in subdivision (f) shall be applied at the entity level and
29 at the shareholder level.

30 (d) For purposes of this section:

31 (1) “LAMBRA” means a local agency military base recovery
32 area designated in accordance with the provisions of Section 7114
33 of the Government Code.

34 (2) “Taxpayer” means a corporation that conducts a trade or
35 business within a LAMBRA and, for the first two taxable years,
36 has a net increase in jobs (defined as 2,000 paid hours per employee
37 per year) of one or more employees in the LAMBRA.

38 (A) The net increase in the number of jobs shall be determined
39 by subtracting the total number of full-time employees (defined
40 as 2,000 paid hours per employee per year) the taxpayer employed

1 in this state in the taxable year prior to commencing business
 2 operations in the LAMBRA from the total number of full-time
 3 employees the taxpayer employed in this state during the second
 4 taxable year after commencing business operations in the
 5 LAMBRA. For taxpayers who commence doing business in this
 6 state with their LAMBRA business operation, the number of
 7 employees for the taxable year prior to commencing business
 8 operations in the LAMBRA shall be zero. If the taxpayer has a net
 9 increase in jobs in the state, the credit shall be allowed only if one
 10 or more full-time employees is employed within the LAMBRA.

11 (B) The total number of employees employed in the LAMBRA
 12 shall equal the sum of both of the following:

13 (i) The total number of hours worked in the LAMBRA for the
 14 taxpayer by employees (not to exceed 2,000 hours per employee)
 15 who are paid an hourly wage divided by 2,000.

16 (ii) The total number of months worked in the LAMBRA for
 17 the taxpayer by employees who are salaried employees divided
 18 by 12.

19 (C) In the case of a taxpayer that first commences doing business
 20 in the LAMBRA during the taxable year, for purposes of clauses
 21 (i) and (ii), respectively, of subparagraph (B), the divisors “2,000”
 22 and “12” shall be multiplied by a fraction, the numerator of which
 23 is the number of months of the taxable year that the taxpayer was
 24 doing business in the LAMBRA and the denominator of which is
 25 12.

26 (e) Any taxpayer who elects to be subject to this section shall
 27 not be entitled to claim additional depreciation pursuant to Section
 28 24356 with respect to any property that constitutes Section 24356.8
 29 property.

30 (f) The aggregate cost of all Section 24356.8 property that may
 31 be taken into account under subdivision (a) for any taxable year
 32 shall not exceed the following applicable amounts for the taxable
 33 year of the designation of the relevant LAMBRA and taxable years
 34 thereafter:

35		
36		The applicable
37		amount is:
38		
39	Taxable year of designation.....	\$100,000
40	1st taxable year thereafter.....	100,000

1		The applicable
2		amount is:
3	2nd taxable year thereafter.....	75,000
4	3rd taxable year thereafter.....	75,000
5	Each taxable year thereafter.....	50,000

6
7 (g) This section shall apply only to property that is used
8 exclusively in a trade or business conducted within a LAMBRA.

9 (h) (1) Any amounts deducted under subdivision (a) with respect
10 to property that ceases to be used in the trade or business within
11 a LAMBRA at any time before the close of the second taxable
12 year after the property was placed in service shall be included in
13 income for that year.

14 (2) At the close of the second taxable year, if the taxpayer has
15 not increased the number of its employees as determined by
16 paragraph (2) of subdivision (d), then the amount of the deduction
17 previously claimed shall be added to the taxpayer's net income
18 for the taxpayer's second taxable year.

19 (i) Any taxpayer who elects to be subject to this section shall
20 not be entitled to claim for the same property the deduction under
21 Section 179 of the Internal Revenue Code, relating to an election
22 to expense certain depreciable business assets.

23 (j) (1) *This section shall cease to be operative for taxable years*
24 *beginning on or after January 1, 2011.*

25 (2) *This section shall be repealed as of December 1, 2011.*

26 SEC. 34. *Section 24384.5 of the Revenue and Taxation Code*
27 *is amended to read:*

28 24384.5. (a) There shall be allowed as a deduction the amount
29 of net interest received by the taxpayer in payment of indebtedness
30 of a person or entity engaged in a trade or business located in an
31 enterprise zone.

32 (b) No deduction shall be allowed under this section unless at
33 the time the indebtedness is incurred each of the following
34 requirements are met:

35 (1) The trade or business is located solely within an enterprise
36 zone.

37 (2) The indebtedness is incurred solely in connection with
38 activity within the enterprise zone.

39 (3) The taxpayer has no equity or other ownership interest in
40 the debtor.

(c) “Enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(d) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 35. *Section 24416.1 of the Revenue and Taxation Code is amended to read:*

24416.1. (a) A qualified taxpayer, as defined in Section 24416.2, ~~24416.4, 24416.5, 24416.6, or 24416.7,~~ may elect to take the deduction provided by Section 172 of the Internal Revenue Code, relating to the net operating loss deduction, as modified by ~~Section 24416.20,~~ in computing net income under Section 24341, with the following exceptions to ~~Section 24416.20:~~

(1) Subdivision (a) of ~~Section 24416.20,~~ relating to years in which allowable losses are sustained, shall not be applicable.

(2) Subdivision (b) of ~~Section 24416.20,~~ relating to the 50-percent reduction of losses, shall not be applicable.

(3) The provisions of subparagraphs (B) and (C) of Section 172 (b) (1) of the Internal Revenue Code shall not apply. To the extent applicable to California law, net operating losses attributable to entities with losses described by Section 172(b)(1)(J) shall be applied in accordance with Section 172(b)(1)(A) and (B) of the Internal Revenue Code.

(b) Corporations whose income is subject to the provisions of Section 25101 or 25101.15 shall make the computations required by Section 25108.

(c) The election to compute the net operating loss under this section shall be made in a statement attached to the original return, timely filed for the year in which the net operating loss is incurred and shall be irrevocable. In addition to the exceptions specified in subdivision (a), ~~Section 24416.2, 24416.4, 24416.5, 24416.6, or 24416.7, as appropriate,~~ shall be applicable.

~~(d) Any carryover of a net operating loss sustained by a qualified taxpayer, as defined in subdivision (a) or (b) of Section 24416.2 as that section read immediately prior to January 1, 1997, shall, if previously elected, continue to be a deduction, as provided in subdivision (a), applied as if the provisions of subdivision (a) or (b) of Section 24416.2, as that section read prior to January 1, 1997, still applied.~~

(d) *The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2011.*

SEC. 36. *Section 24416.2 of the Revenue and Taxation Code is amended to read:*

24416.2. (a) The term “qualified taxpayer” as used in Section 24416.1 includes a corporation engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this subdivision as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The enterprise zone” shall be substituted for “this state.”

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in

1 accordance with Chapter 17 (commencing with Section 25101).
2 That business income shall be further apportioned to the enterprise
3 zone in accordance with Article 2 (commencing with Section
4 25120) of Chapter 17, modified for purposes of this subdivision
5 as follows:

6 (i) Business income shall be apportioned to the enterprise zone
7 by multiplying the total California business income of the taxpayer
8 by a fraction, the numerator of which is the property factor plus
9 the payroll factor, and the denominator of which is two. For
10 purposes of this clause:

11 (I) The property factor is a fraction, the numerator of which is
12 the average value of the taxpayer's real and tangible personal
13 property owned or rented and used in the enterprise zone during
14 the taxable year, and the denominator of which is the average value
15 of all the taxpayer's real and tangible personal property owned or
16 rented and used in this state during the taxable year.

17 (II) The payroll factor is a fraction, the numerator of which is
18 the total amount paid by the taxpayer in the enterprise zone during
19 the taxable year for compensation, and the denominator of which
20 is the total compensation paid by the taxpayer in this state during
21 the taxable year.

22 (ii) If a loss carryover is allowable pursuant to this section for
23 any taxable year after the enterprise zone designation has expired,
24 the enterprise zone shall be deemed to remain in existence for
25 purposes of computing the limitation set forth in subparagraph (B)
26 and allowing a net operating loss deduction.

27 (D) "Enterprise zone expiration date" means the date the
28 enterprise zone designation expires, is no longer binding, or
29 becomes inoperative.

30 (3) The changes made to this subdivision by the act adding this
31 paragraph shall apply to taxable years beginning on or after January
32 1, 1998.

33 (b) A taxpayer who qualifies as a "qualified taxpayer" under
34 one or more sections shall, for the taxable year of the net operating
35 loss and any taxable year to which that net operating loss may be
36 carried, designate on the original return filed for each year the
37 section which applies to that taxpayer with respect to that net
38 operating loss. If the taxpayer is eligible to qualify under more
39 than one section, the designation is to be made after taking into
40 account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 24416.4, 24416.5, or 24416.6 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section, or Section 24416.4, 24416.5, or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

(e) (1) *This section shall cease to be operative for taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 37. *Section 24416.4 of the Revenue and Taxation Code is amended to read:*

24416.4. (a) The term “qualified taxpayer” as used in Section 24416.1 includes a corporation engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to *the former* Section 7102 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and, except as provided in subparagraph (B), a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following taxable year that ends before the Los Angeles Revitalization Zone expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any taxable year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the taxable year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(3) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer’s business activities within the Los Angeles Revitalization Zone (as defined in *the former* Section 7102 of the Government Code) prior to the Los Angeles

1 Revitalization Zone expiration date. The attributable loss shall be
2 determined in accordance with Chapter 17 (commencing with
3 Section 25101) of Part 11, modified as follows:

4 (A) The loss shall be apportioned to the Los Angeles
5 Revitalization Zone by multiplying the loss from the business by
6 a fraction, the numerator of which is the property factor plus the
7 payroll factor, and the denominator of which is 2.

8 (B) “The Los Angeles Revitalization Zone” shall be substituted
9 for “this state.”

10 (4) A net operating loss carryover shall be a deduction only with
11 respect to the taxpayer’s business income attributable to the Los
12 Angeles Revitalization Zone (as defined in *the former* Section
13 7102 of the Government Code) determined in accordance with
14 subdivision (c).

15 (5) If a loss carryover is allowable pursuant to this section for
16 any taxable year after the Los Angeles Revitalization Zone
17 designation has expired, the Los Angeles Revitalization Zone shall
18 be deemed to remain in existence for purposes of computing the
19 limitation set forth in paragraph (2) and allowing a net operating
20 loss deduction.

21 (6) Attributable income shall be that portion of the taxpayer’s
22 California source business income which is apportioned to the Los
23 Angeles Revitalization Zone. For that purpose, the taxpayer’s
24 business income attributable to sources in this state first shall be
25 determined in accordance with Chapter 17 (commencing with
26 Section 25101). That business income shall be further apportioned
27 to the Los Angeles Revitalization Zone in accordance with Article
28 2 (commencing with Section 25120) of Chapter 17, modified as
29 follows:

30 (A) Business income shall be apportioned to the Los Angeles
31 Revitalization Zone by multiplying total California business income
32 of the taxpayer by a fraction, the numerator of which is the property
33 factor plus the payroll factor, and the denominator of which is 2.

34 (B) The property factor is a fraction, the numerator of which is
35 the average value of the taxpayer’s real and tangible personal
36 property owned or rented and used in the Los Angeles
37 Revitalization Zone during the taxable year and the denominator
38 of which is the average value of all the taxpayer’s real and tangible
39 personal property owned or rented and used in this state during
40 the taxable year.

(C) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Los Angeles Revitalization Zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(7) “Los Angeles Revitalization Zone expiration date” means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative pursuant to *the former* Section 7102, 7103, or 7104 of the Government Code.

(b) This section shall be inoperative on the first day of the taxable year beginning on or after the determination date, and each taxable year thereafter, with respect to the taxpayer’s business activities within a geographic area that is excluded from the map pursuant to *the former* Section 7102 of the Government Code, or an excluded area determined pursuant to *the former* Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under ~~subdivision (e) of~~ *the former* Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under *the former* Section 7104 of the Government Code. However, if the taxpayer has any unused loss amount as of the date this section becomes inoperative, that unused loss amount may continue to be carried forward as provided in this section.

(c) A taxpayer who qualifies as a “qualified taxpayer” under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (d).

(d) If a taxpayer is eligible to qualify under this section and either Section 24416.2, 24416.5, or 24416.6 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(e) Notwithstanding Section 24416, the amount of the loss determined under this section or Section 24416.2, 24416.5, or 24416.6 shall be the only net operating loss allowed to be carried

over from that taxable year and the designation under subdivision (c) shall be included in the election under Section 24416.1.

(f) This section shall cease to be operative on December 1, 1998. ~~However, any unused net operating loss may continue to be carried over to following years as provided in this section.~~

(g) (1) *The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2011.*

(2) *This section shall be repealed as of December 1, 2011.*

SEC. 38. *Section 24416.5 of the Revenue and Taxation Code is amended to read:*

24416.5. (a) For each taxable year beginning on or after January 1, 1995, the term “qualified taxpayer” as used in Section 24416.1 includes a taxpayer engaged in the conduct of a trade or business within a LAMBRA. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and, except as provided in subparagraph (B), a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following taxable year that ends before the LAMBRA expiration date or to each of the 15 taxable years following the taxable year of loss, if longer.

(2) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any taxable year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the taxable year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(3) “LAMBRA” means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(4) “Taxpayer” means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state. For purposes of this paragraph, all of the following shall apply:

1 (A) The net increase in the number of jobs shall be determined
2 by subtracting the total number of full-time employees (defined
3 as 2,000 paid hours per employee per year) the taxpayer employed
4 in this state in the taxable year prior to commencing business
5 operations in the LAMBRA from the total number of full-time
6 employees the taxpayer employed in this state during the second
7 taxable year after commencing business operations in the
8 LAMBRA. For taxpayers who commence doing business in this
9 state with their LAMBRA business operation, the number of
10 employees for the taxable year prior to commencing business
11 operations in the LAMBRA shall be zero. The deduction shall be
12 allowed only if the taxpayer has a net increase in jobs in the state,
13 and if one or more full-time employees are employed within the
14 LAMBRA.

15 (B) The total number of employees employed in the LAMBRA
16 shall equal the sum of both of the following:

17 (i) The total number of hours worked in the LAMBRA for the
18 taxpayer by employees (not to exceed 2,000 hours per employee)
19 who are paid an hourly wage divided by 2,000.

20 (ii) The total number of months worked in the LAMBRA for
21 the taxpayer by employees who are salaried employees divided
22 by 12.

23 (C) In the case of a taxpayer that first commences doing business
24 in the LAMBRA during the taxable year, for purposes of clauses
25 (i) and (ii), respectively, of subparagraph (B) the divisors “2,000”
26 and “12” shall be multiplied by a fraction, the numerator of which
27 is the number of months of the taxable year that the taxpayer was
28 doing business in the LAMBRA and the denominator of which is
29 12.

30 (5) “Net operating loss” means the loss determined under
31 Section 172 of the Internal Revenue Code, as modified by Section
32 24416.1, attributable to the taxpayer’s business activities within a
33 LAMBRA prior to the LAMBRA expiration date. The attributable
34 loss shall be determined in accordance with Chapter 17
35 (commencing with Section 25101), modified for purposes of this
36 section as follows:

37 (A) Loss shall be apportioned to a LAMBRA by multiplying
38 total loss from the business by a fraction, the numerator of which
39 is the property factor plus the payroll factor, and the denominator
40 of which is 2.

1 (B) “The LAMBRA” shall be substituted for “this state.”

2 (6) A net operating loss carryover shall be a deduction only with
3 respect to the taxpayer’s business income attributable to a
4 LAMBRA.

5 (7) Attributable income is that portion of the taxpayer’s
6 California source business income that is apportioned to the
7 LAMBRA. For that purpose, the taxpayer’s business income
8 attributable to sources in this state first shall be determined in
9 accordance with Chapter 17 (commencing with Section 25101).
10 That business income shall be further apportioned to the LAMBRA
11 in accordance with Article 2 (commencing with Section 25120)
12 of Chapter 17, modified as follows:

13 (A) Business income shall be apportioned to a LAMBRA by
14 multiplying total California business income of the taxpayer by a
15 fraction, the numerator of which is the property factor plus the
16 payroll factor, and the denominator of which is two. For purposes
17 of this clause:

18 (i) The property factor is a fraction, the numerator of which is
19 the average value of the taxpayer’s real and tangible personal
20 property owned or rented and used in the LAMBRA during the
21 taxable year, and the denominator of which is the average value
22 of all the taxpayer’s real and tangible personal property owned or
23 rented and used in this state during the taxable year.

24 (ii) The payroll factor is a fraction, the numerator of which is
25 the total amount paid by the taxpayer in the LAMBRA during the
26 taxable year for compensation, and the denominator of which is
27 the total compensation paid by the taxpayer in this state during the
28 taxable year.

29 (B) If a loss carryover is allowable pursuant to this section for
30 any taxable year after the LAMBRA designation has expired, the
31 LAMBRA shall be deemed to remain in existence for purposes of
32 computing the limitation specified in subparagraph (D) and
33 allowing a net operating loss deduction.

34 (8) “LAMBRA expiration date” means the date the LAMBRA
35 designation expires, is no longer binding, or becomes inoperative
36 pursuant to Section 7110 of the Government Code.

37 (b) A taxpayer who qualifies as a “qualified taxpayer” under
38 one or more sections shall, for the taxable year of the net operating
39 loss and any taxable year to which that net operating loss may be
40 carried, designate on the original return filed for each year the

1 section that applies to that taxpayer with respect to that net
2 operating loss. If the taxpayer is eligible to qualify under more
3 than one section, the designation is to be made after taking into
4 account subdivision (c).

5 (c) If a taxpayer is eligible to qualify under this section and
6 either Section 24416.2, 24416.4, or 24416.6 as a “qualified
7 taxpayer,” with respect to a net operating loss in a taxable year,
8 the taxpayer shall designate which section is to apply to the
9 taxpayer.

10 (d) Notwithstanding Section 24416, the amount of the loss
11 determined under this section or Section 24416.2, 24416.4, or
12 24416.6 shall be the only net operating loss allowed to be carried
13 over from that taxable year and the designation under subdivision
14 (b) shall be included in the election under Section 24416.1.

15 (e) This section shall apply to taxable years beginning on and
16 after January 1, 1998.

17 (f) (1) *This section shall cease to be operative for taxable years*
18 *beginning on or after January 1, 2011.*

19 (2) *This section shall be repealed as of December 1, 2011.*

20 SEC. 39. *Section 24416.6 of the Revenue and Taxation Code*
21 *is amended to read:*

22 24416.6. (a) For each taxable year beginning on or after
23 January 1, 1998, the term “qualified taxpayer” as used in Section
24 24416.1 includes a corporation that meets both of the following:

25 (1) Is engaged in the conduct of a trade or business within a
26 targeted tax area designated pursuant to Chapter 12.93
27 (commencing with Section 7097) of Division 7 of Title 1 of the
28 Government Code.

29 (2) Is engaged in those lines of business described in Codes
30 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
31 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
32 of the Standard Industrial Classification (SIC) Manual published
33 by the United States Office of Management and Budget, 1987
34 edition. In the case of any pass-through entity, the determination
35 of whether a taxpayer is a qualified taxpayer shall be made at the
36 entity level.

37 (b) For purposes of subdivision (a), all of the following shall
38 apply:

39 (1) A net operating loss shall not be a net operating loss
40 carryback for any taxable year and a net operating loss for any

1 taxable year beginning on or after the date that the area in which
2 the qualified taxpayer conducts a trade or business is designated
3 as a targeted tax area shall be a net operating loss carryover to each
4 of the 15 taxable years following the taxable year of loss.

5 (2) “Net operating loss” means the loss determined under
6 Section 172 of the Internal Revenue Code, as modified by Section
7 24416.1, attributable to the qualified taxpayer’s business activities
8 within the targeted tax area (as defined in Chapter 12.93
9 (commencing with Section 7097) of Division 7 of Title 1 of the
10 Government Code) prior to the targeted tax area expiration date.
11 That attributable loss shall be determined in accordance with
12 Chapter 17 (commencing with Section 25101), modified for
13 purposes of this section as follows:

14 (A) Loss shall be apportioned to the targeted tax area by
15 multiplying total loss from the business by a fraction, the numerator
16 of which is the property factor plus the payroll factor, and the
17 denominator of which is 2.

18 (B) “The targeted tax area” shall be substituted for “this state.”

19 (3) A net operating loss carryover shall be a deduction only with
20 respect to the qualified taxpayer’s business income attributable to
21 the targeted tax area as defined in Chapter 12.93 (commencing
22 with Section 7097) of Division 7 of Title 1 of the Government
23 Code.

24 (4) Attributable income is that portion of the taxpayer’s
25 California source business income that is apportioned to the
26 targeted tax area. For that purpose, the taxpayer’s business income
27 attributable to sources in this state first shall be determined in
28 accordance with Chapter 17 (commencing with Section 25101).
29 That business income shall be further apportioned to the targeted
30 tax area in accordance with Article 2 (commencing with Section
31 25120) of Chapter 17, modified for purposes of this subdivision
32 as follows:

33 (A) Business income shall be apportioned to the targeted tax
34 area by multiplying the total California business income of the
35 taxpayer by a fraction, the numerator of which is the property
36 factor plus the payroll factor, and the denominator of which is two.
37 For purposes of this clause:

38 (i) The property factor is a fraction, the numerator of which is
39 the average value of the taxpayer’s real and tangible personal
40 property owned or rented and used in the targeted tax area during

1 the taxable year, and the denominator of which is the average value
2 of all the taxpayer's real and tangible personal property owned or
3 rented and used in this state during the taxable year.

4 (ii) The payroll factor is a fraction, the numerator of which is
5 the total amount paid by the taxpayer in the targeted tax area during
6 the taxable year for compensation, and the denominator of which
7 is the total compensation paid by the taxpayer in this state during
8 the taxable year.

9 (B) If a loss carryover is allowable pursuant to this subdivision
10 for any taxable year after the targeted tax area expiration date, the
11 targeted tax area designation shall be deemed to remain in existence
12 for purposes of computing the limitation specified in subparagraph
13 (B) and allowing a net operating loss deduction.

14 (5) "Targeted tax area expiration date" means the date the
15 targeted tax area designation expires, is revoked, is no longer
16 binding, or becomes inoperative.

17 (c) A taxpayer who qualifies as a "qualified taxpayer" under
18 one or more sections shall, for the taxable year of the net operating
19 loss and any taxable year to which that net operating loss may be
20 carried, designate on the original return filed for each year the
21 section that applies to that taxpayer with respect to that net
22 operating loss. If the taxpayer is eligible to qualify under more
23 than one section, the designation is to be made after taking into
24 account subdivision (e).

25 (d) If a taxpayer is eligible to qualify under this section and
26 either Section 24416.2, 24416.4, or 24416.5 as a "qualified
27 taxpayer," with respect to a net operating loss in a taxable year,
28 the taxpayer shall designate which section is to apply to the
29 taxpayer.

30 (e) Notwithstanding Section 24416, the amount of the loss
31 determined under this section or Section 24416.2, 24416.4, or
32 24416.5 shall be the only net operating loss allowed to be carried
33 over from that taxable year and the designation under subdivision
34 (c) shall be included in the election under Section 24416.1.

35 (f) This section shall apply to taxable years beginning on or
36 after January 1, 1998.

37 (g) (1) *This section shall cease to be operative for taxable years*
38 *beginning on or after January 1, 2011.*

39 (2) *This section shall be repealed as of December 1, 2011.*

1 *SEC. 40. Section 24416.20 of the Revenue and Taxation Code*
2 *is amended to read:*

3 24416.20. Except as provided in Sections 24416.1, ~~24416.2,~~
4 ~~24416.4, 24416.5, 24416.6,~~ and 24416.7, a net operating loss
5 deduction shall be allowed in computing net income under Section
6 24341 and shall be determined in accordance with Section 172 of
7 the Internal Revenue Code, except as otherwise provided.

8 (a) (1) Net operating losses attributable to taxable years
9 beginning before January 1, 1987, shall not be allowed.

10 (2) A net operating loss shall not be carried forward to any
11 taxable year beginning before January 1, 1987.

12 (b) (1) Except as provided in paragraphs (2) and (3), the
13 provisions of Section 172(b)(2) of the Internal Revenue Code,
14 relating to amount of carrybacks and carryovers, shall be modified
15 so that the applicable percentage of the entire amount of the net
16 operating loss for any taxable year shall be eligible for carryover
17 to any subsequent taxable year. For purposes of this subdivision,
18 the applicable percentage shall be:

19 (A) Fifty percent for any taxable year beginning before January
20 1, 2000.

21 (B) Fifty-five percent for any taxable year beginning on or after
22 January 1, 2000, and before January 1, 2002.

23 (C) Sixty percent for any taxable year beginning on or after
24 January 1, 2002, and before January 1, 2004.

25 (D) One hundred percent for any taxable year beginning on or
26 after January 1, 2004.

27 (2) In the case of a taxpayer who has a net operating loss in any
28 taxable year beginning on or after January 1, 1994, and who
29 operates a new business during that taxable year, each of the
30 following shall apply to each loss incurred during the first three
31 taxable years of operating the new business:

32 (A) If the net operating loss is equal to or less than the net loss
33 from the new business, 100 percent of the net operating loss shall
34 be carried forward as provided in subdivision (e).

35 (B) If the net operating loss is greater than the net loss from the
36 new business, the net operating loss shall be carried over as
37 follows:

38 (i) With respect to an amount equal to the net loss from the new
39 business, 100 percent of that amount shall be carried forward as
40 provided in subdivision (e).

1 (ii) With respect to the portion of the net operating loss that
2 exceeds the net loss from the new business, the applicable
3 percentage of that amount shall be carried forward as provided in
4 subdivision (d).

5 (C) For purposes of Section 172(b)(2) of the Internal Revenue
6 Code, the amount described in clause (ii) of subparagraph (B) shall
7 be absorbed before the amount described in clause (i) of
8 subparagraph (B).

9 (3) In the case of a taxpayer who has a net operating loss in any
10 taxable year beginning on or after January 1, 1994, and who
11 operates an eligible small business during that taxable year, each
12 of the following shall apply:

13 (A) If the net operating loss is equal to or less than the net loss
14 from the eligible small business, 100 percent of the net operating
15 loss shall be carried forward to the taxable years specified in
16 paragraph (1) of subdivision (e).

17 (B) If the net operating loss is greater than the net loss from the
18 eligible small business, the net operating loss shall be carried over
19 as follows:

20 (i) With respect to an amount equal to the net loss from the
21 eligible small business, 100 percent of that amount shall be carried
22 forward as provided in subdivision (e).

23 (ii) With respect to that portion of the net operating loss that
24 exceeds the net loss from the eligible small business, the applicable
25 percentage of that amount shall be carried forward as provided in
26 subdivision (e).

27 (C) For purposes of Section 172(b)(2) of the Internal Revenue
28 Code, the amount described in clause (ii) of subparagraph (B) shall
29 be absorbed before the amount described in clause (i) of
30 subparagraph (B).

31 (4) In the case of a taxpayer who has a net operating loss in a
32 taxable year beginning on or after January 1, 1994, and who
33 operates a business that qualifies as both a new business and an
34 eligible small business under this section, that business shall be
35 treated as a new business for the first three taxable years of the
36 new business.

37 (5) In the case of a taxpayer who has a net operating loss in a
38 taxable year beginning on or after January 1, 1994, and who
39 operates more than one business, and more than one of those
40 businesses qualifies as either a new business or an eligible small

business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, “net loss” means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any taxable year in which the taxpayer has in effect a water’s-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water’s-edge election under Section 25110 had been in effect for the taxable year in which the loss was incurred.

(d) Section 172(b)(1) of the Internal Revenue Code, relating to years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2013.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2013, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, and before January 1, 2014, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2014, and before January 1, 2015, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2015, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

1 (3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the
2 Internal Revenue Code, relating to special rules for REITs, and
3 Section 172(b)(1)(E) of the Internal Revenue Code, relating to
4 excess interest loss, and Section 172(h) of the Internal Revenue
5 Code, relating to corporate equity reduction interest losses, shall
6 apply as provided.

7 (4) A net operating loss carryback shall not be carried back to
8 any taxable year beginning before January 1, 2011.

9 (e) (1) (A) For a net operating loss for any taxable year
10 beginning on or after January 1, 1987, and before January 1, 2000,
11 Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified
12 to substitute “five taxable years” in lieu of “20 years” except as
13 otherwise provided in paragraphs (2), (3), and (4).

14 (B) For a net operating loss for any income year beginning on
15 or after January 1, 2000, and before January 1, 2008, Section
16 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to
17 substitute “10 taxable years” in lieu of “20 taxable years.”

18 (2) For any income year beginning before January 1, 2000, in
19 the case of a “new business,” the “five taxable years” referred to
20 in paragraph (1) shall be modified to read as follows:

21 (A) “Eight taxable years” for a net operating loss attributable
22 to the first taxable year of that new business.

23 (B) “Seven taxable years” for a net operating loss attributable
24 to the second taxable year of that new business.

25 (C) “Six taxable years” for a net operating loss attributable to
26 the third taxable year of that new business.

27 (3) For any carryover of a net operating loss for which a
28 deduction is denied by Section 24416.3, the carryover period
29 specified in this subdivision shall be extended as follows:

30 (A) By one year for a net operating loss attributable to taxable
31 years beginning in 1991.

32 (B) By two years for a net operating loss attributable to taxable
33 years beginning prior to January 1, 1991.

34 (4) The net operating loss attributable to taxable years beginning
35 on or after January 1, 1987, and before January 1, 1994, shall be
36 a net operating loss carryover to each of the 10 taxable years
37 following the year of the loss if it is incurred by a corporation that
38 was either of the following:

39 (A) Under the jurisdiction of the court in a Title 11 or similar
40 case at any time prior to January 1, 1994. The loss carryover

1 provided in the preceding sentence shall not apply to any loss
2 incurred in an income year after the taxable year during which the
3 corporation is no longer under the jurisdiction of the court in a
4 Title 11 or similar case.

5 (B) In receipt of assets acquired in a transaction that qualifies
6 as a tax-free reorganization under Section 368(a)(1)(G) of the
7 Internal Revenue Code.

8 (f) For purposes of this section:

9 (1) “Eligible small business” means any trade or business that
10 has gross receipts, less returns and allowances, of less than one
11 million dollars (\$1,000,000) during the income year.

12 (2) Except as provided in subdivision (g), “new business” means
13 any trade or business activity that is first commenced in this state
14 on or after January 1, 1994.

15 (3) “Title 11 or similar case” shall have the same meaning as
16 in Section 368(a)(3) of the Internal Revenue Code.

17 (4) In the case of any trade or business activity conducted by a
18 partnership or an “S” corporation, paragraphs (1) and (2) shall be
19 applied to the partnership or “S” corporation.

20 (g) For purposes of this section, in determining whether a trade
21 or business activity qualifies as a new business under paragraph
22 (2) of subdivision (e), the following rules shall apply:

23 (1) In any case where a taxpayer purchases or otherwise acquires
24 all or any portion of the assets of an existing trade or business
25 (irrespective of the form of entity) that is doing business in this
26 state (within the meaning of Section 23101), the trade or business
27 thereafter conducted by the taxpayer (or any related person) shall
28 not be treated as a new business if the aggregate fair market value
29 of the acquired assets (including real, personal, tangible, and
30 intangible property) used by the taxpayer (or any related person)
31 in the conduct of its trade or business exceeds 20 percent of the
32 aggregate fair market value of the total assets of the trade or
33 business being conducted by the taxpayer (or any related person).
34 For purposes of this paragraph only, the following rules shall apply:

35 (A) The determination of the relative fair market values of the
36 acquired assets and the total assets shall be made as of the last day
37 of the first taxable year in which the taxpayer (or any related
38 person) first uses any of the acquired trade or business assets in
39 its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months (“prior trade or business activity”), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer’s (or any related person’s) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) “Related person” shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) “Acquire” shall include any transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term “new business” shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities

1 that are described in Codes 2833 to 2836, inclusive, of the Standard
2 Industrial Classification (SIC) Manual published by the United
3 States Office of Management and Budget, 1987 edition, and as
4 further amended, and that has not received regulatory approval for
5 any product from the United States Food and Drug Administration.

6 (B) For purposes of this paragraph:

7 (i) “Biopharmaceutical activities” means those activities that
8 use organisms or materials derived from organisms, and their
9 cellular, subcellular, or molecular components, in order to provide
10 pharmaceutical products for human or animal therapeutics and
11 diagnostics. Biopharmaceutical activities make use of living
12 organisms to make commercial products, as opposed to
13 pharmaceutical activities that make use of chemical compounds
14 to produce commercial products.

15 (ii) “Other biotechnology activities” means activities consisting
16 of the application of recombinant DNA technology to produce
17 commercial products, as well as activities regarding pharmaceutical
18 delivery systems designed to provide a measure of control over
19 the rate, duration, and site of pharmaceutical delivery.

20 (h) For purposes of corporations whose net income is determined
21 under Chapter 17 (commencing with Section 25101), Section
22 25108 shall apply to each of the following:

23 (1) The amount of net operating loss incurred in any taxable
24 year that may be carried forward to another taxable year.

25 (2) The amount of any loss carry forward that may be deducted
26 in any taxable year.

27 (i) The provisions of Section 172(b)(1)(D) of the Internal
28 Revenue Code, relating to bad debt losses of commercial banks,
29 shall not be applicable.

30 (j) The Franchise Tax Board may prescribe appropriate
31 regulations to carry out the purposes of this section, including any
32 regulations necessary to prevent the avoidance of the purposes of
33 this section through splitups, shell corporations, partnerships, tiered
34 ownership structures, or otherwise.

35 (k) The Franchise Tax Board may reclassify any net operating
36 loss carryover determined under either paragraph (2) or (3) of
37 subdivision (b) as a net operating loss carryover under paragraph
38 (1) of subdivision (b) upon a showing that the reclassification is
39 necessary to prevent evasion of the purposes of this section.

(l) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

(m) *The changes made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2011.*

SEC. 41. *Section 24416.22 of the Revenue and Taxation Code is repealed.*

~~24416.22. Notwithstanding Section 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, or 24416.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2013, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.~~

SEC. 42. *Section 24416.22 is added to the Revenue and Taxation Code, to read:*

24416.22. (a) *For any carryover of a net operating loss for which an election under former Section 24416.2, 24416.4, 24416.5, or 24416.6 was made, the net operating loss carryover amount available for carryover under former Section 24416.2, 24416.4, 24416.5, or 24416.6 to the first taxable year beginning on or after January 1, 2011, shall be recalculated by applying the net operating loss rules applicable for the taxable year to which the net operating loss was incurred, as provided in Section 24416.20 or former Section 24416. This recalculated amount, if in excess of zero, shall be added to the amount of any net operating loss attributable to the same taxable year that is available for carryover to the first taxable year beginning on or after January 1, 2011, under Section 24416.20 and shall be treated as if no election under former Section 24416.2, 24416.4, 24416.5, or 24416.6 had been made with respect to that recalculated amount.*

(b) *To the extent that the application of subdivision (a) reduces the net operating loss carryover amount available for taxable years beginning on or after January 1, 2011, to an amount equal to or less than zero, no amount of net operating loss attributable to this recalculated amount shall be available for carryover to a taxable year beginning on or after January 1, 2011. The application of this section shall not be interpreted to reduce the amount of a net*

1 *operating loss deduction under former Section 24416.2, 24416.4,*
2 *24416.5, or 24416.6 for any taxable year beginning before January*
3 *1, 2011.*

4 *SEC. 43. Section 25128 of the Revenue and Taxation Code is*
5 *amended to read:*

6 25128. (a) (1) *Notwithstanding Section 38006, for taxable*
7 *years beginning before January 1, 2011, all business income shall*
8 *be apportioned to this state by multiplying the business income*
9 *by a fraction, the numerator of which is the property factor plus*
10 *the payroll factor plus twice the sales factor, and the denominator*
11 *of which is four, except as provided in subdivision (b) or (c).*

12 (2) *Notwithstanding Section 38006, for taxable years beginning*
13 *on or after January 1, 2011, all business income of an apportioning*
14 *trade or business, other than an apportioning trade or business*
15 *described in subdivision (b), shall be apportioned to this state by*
16 *multiplying the business income by the sales factor.*

17 (b) *If an apportioning trade or business derives more than 50*
18 *percent of its “gross business receipts” from conducting one or*
19 *more qualified business activities, all business income of the*
20 *apportioning trade or business shall be apportioned to this state by*
21 *multiplying business income by a fraction, the numerator of which*
22 *is the property factor plus the payroll factor plus the sales factor,*
23 *and the denominator of which is three.*

24 (c) *For purposes of this section, a “qualified business activity”*
25 *means the following:*

26 (1) *An agricultural business activity.*

27 (2) *An extractive business activity.*

28 (3) *A savings and loan activity.*

29 (4) *A banking or financial business activity.*

30 (d) *For purposes of this section:*

31 (1) *“Gross business receipts” means gross receipts described in*
32 *subdivision (e) or (f) of Section 25120 (other than gross receipts*
33 *from sales or other transactions within an apportioning trade or*
34 *business between members of a group of corporations whose*
35 *income and apportionment factors are required to be included in*
36 *a combined report under Section 25101, limited, if applicable, by*
37 *Section 25110), whether or not the receipts are excluded from the*
38 *sales factor by operation of Section 25137.*

39 (2) *“Agricultural business activity” means activities relating to*
40 *any stock, dairy, poultry, fruit, furbearing animal, or truck farm,*

1 plantation, ranch, nursery, or range. “Agricultural business activity”
2 also includes activities relating to cultivating the soil or raising or
3 harvesting any agricultural or horticultural commodity, including,
4 but not limited to, the raising, shearing, feeding, caring for, training,
5 or management of animals on a farm as well as the handling,
6 drying, packing, grading, or storing on a farm any agricultural or
7 horticultural commodity in its unmanufactured state, but only if
8 the owner, tenant, or operator of the farm regularly produces more
9 than one-half of the commodity so treated.

10 (3) “Extractive business activity” means activities relating to
11 the production, refining, or processing of oil, natural gas, or mineral
12 ore.

13 (4) “Savings and loan activity” means any activities performed
14 by savings and loan associations or savings banks which have been
15 chartered by federal or state law.

16 (5) “Banking or financial business activity” means activities
17 attributable to dealings in money or moneyed capital in substantial
18 competition with the business of national banks.

19 (6) “Apportioning trade or business” means a distinct trade or
20 business whose business income is required to be apportioned
21 under Sections 25101 and 25120, limited, if applicable, by Section
22 25110, using the same denominator for each of the applicable
23 payroll, property, and sales factors.

24 (7) Paragraph (4) of subdivision (c) shall apply only if the
25 Franchise Tax Board adopts the Proposed Multistate Tax
26 Commission Formula for the Uniform Apportionment of Net
27 Income from Financial Institutions, or its substantial equivalent,
28 and shall become operative upon the same operative date as the
29 adopted formula.

30 (8) In any case where the income and apportionment factors of
31 two or more savings associations or corporations are required to
32 be included in a combined report under Section 25101, limited, if
33 applicable, by Section 25110, both of the following shall apply:

34 (A) The application of the more than 50 percent test of
35 subdivision (b) shall be made with respect to the “gross business
36 receipts” of the entire apportioning trade or business of the group.

37 (B) The entire business income of the group shall be apportioned
38 in accordance with either subdivision (a) or (b), ~~or subdivision (b)~~
39 ~~of Section 25128.5~~, as applicable.

1 *SEC. 44. Section 25128.5 of the Revenue and Taxation Code*
2 *is repealed.*

3 ~~25128.5. (a) Notwithstanding Section 38006, for taxable years~~
4 ~~beginning on or after January 1, 2011, any apportioning trade or~~
5 ~~business, other than an apportioning trade or business described~~
6 ~~in subdivision (b) of Section 25128, may make an irrevocable~~
7 ~~annual election on an original timely filed return, in the manner~~
8 ~~and form prescribed by the Franchise Tax Board to apportion its~~
9 ~~income in accordance with this section, and not in accordance with~~
10 ~~Section 25128.~~

11 ~~(b) Notwithstanding Section 38006, for taxable years beginning~~
12 ~~on or after January 1, 2011, all business income of an apportioning~~
13 ~~trade or business making an election described in subdivision (a)~~
14 ~~shall be apportioned to this state by multiplying the business~~
15 ~~income by the sales factor.~~

16 ~~(c) The Franchise Tax Board is authorized to issue regulations~~
17 ~~necessary or appropriate regarding the making of an election under~~
18 ~~this section, including regulations that are consistent with rules~~
19 ~~prescribed for making an election under Section 25113.~~

20 *SEC. 45. Section 25136 of the Revenue and Taxation Code is*
21 *amended to read:*

22 25136. (a) For taxable years beginning before January 1, 2011,
23 and for taxable years beginning on or after January 1, 2011, for
24 ~~which Section 25128.5 is operative and an election under~~
25 ~~subdivision (a) of Section 25128.5 has not been made,~~ sales, other
26 than sales of tangible personal property, are in this state if:

27 (1) The income-producing activity is performed in this state; or

28 (2) The income-producing activity is performed both in and
29 outside this state and a greater proportion of the income-producing
30 activity is performed in this state than in any other state, based on
31 costs of performance.

32 ~~(3) This subdivision shall apply, and subdivision (b) shall not~~
33 ~~apply, for any taxable year beginning on or after January 1, 2011,~~
34 ~~for which Section 25128.5 is not operative for any taxpayer subject~~
35 ~~to the tax imposed under this part.~~

36 ~~(b) For taxable years beginning on or after January 1, 2011:~~

37 ~~(1) Sales from services are in this state to the extent the~~
38 ~~purchaser of the service received the benefit of the service in this~~
39 ~~state.~~

~~(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.~~

~~(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.~~

~~(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.~~

~~(5) (A) If Section 25128.5 is operative, then this subdivision shall apply in lieu of subdivision (a) for any taxable year for which an election has been made under subdivision (a) of Section 25128.5.~~

~~(B) If Section 25128.5 is not operative, then this subdivision shall not apply and subdivision (a) shall apply for any taxpayer subject to the tax imposed under this part.~~

~~(C) Notwithstanding subparagraphs (A) or (B), this subdivision shall apply for purposes of paragraph (2) of subdivision (b) of Section 23101.~~

~~(e) The Franchise Tax Board may prescribe those regulations as necessary or appropriate to carry out the purposes of subdivision (b).~~

~~(b) This section shall not apply to taxable years beginning on or after January 1, 2011, and as of December 31, 2011, is repealed.~~

~~SEC. 46. Section 25136 is added to the Revenue and Taxation Code, to read:~~

~~25136. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, sales, other than sales of tangible personal property, are in this state if:~~

~~(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the services in this state.~~

~~(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.~~

~~(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.~~

~~(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.~~

~~(b) The Franchise Tax Board may prescribe regulations as necessary or appropriate to carry out the purposes of this section.~~

1 *SEC. 47. This act addresses the fiscal emergency declared and*
2 *reaffirmed by the Governor by proclamation on January 20, 2011,*
3 *pursuant to subdivision (f) of Section 10 of Article IV of the*
4 *California Constitution.*

5 *SEC. 48. This act provides for a tax levy within the meaning*
6 *of Article IV of the Constitution and shall go into immediate effect.*

7 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
8 ~~changes relating to the Budget Act of 2011.~~